REED'S PARLIAMENTARY RULES

Very truly yours

Thomas B. Reed

REED'S RULES

A Manual

OF

GENERAL PARLIAMENTARY LAW

WITH

SUGGESTIONS FOR SPECIAL RULES

BY

THOMAS B. REED,

SPEAKER OF THE HOUSE OF REPRESENTATIVES.

CHICAGO:
RAND, McNALLY & COMPANY.
1900.

Copyright, 1894, by Thomas B. Reed.
Copyright, 1898, by Thomas B. Reed.

CONTENTS.

CHAPTER PAGE

I.—Introduction 11

II.—Preliminary Propositions 16
§1. Understanding under which assemblies meet 16
2–4. Nature of assemblies 17
5–8. Adaptation of organization to the assembly 18–20
9–22. Quorum 21–28
23–25. Rule of majority 28, 29

III.—Organization 29
§26. Object of organization 29
27. Simple organization 29
28–31. Double organization 31, 32

IV.—Officers and Their Rights and Duties 35
§32–40. Presiding officer, rights and duties 35–40
41–46. Clerk, rights and duties 41–44
47. Other officers 45

V.—Rights and Duties of Members 46
§48. Rights of members 46
49, 50. Duties of members 47, 48

VI.—Rules and Orders 49
§51. Why special rules are needed 49
52. Alteration of rules 50
53, 54. Suspension of rules 50, 51
55. Practical suggestion as to rules 51
56, 57. Government in the absence of rules 52

CHAPTER PAGE

197. Subsidiary motions 140
198. Privileged questions 141
199. Incidental questions 142
200. Practical illustration of the order of motions 143
201. Motions in their relations to debate, amendment, and to each other 145

XII.—Motions for Reconsideration 147
§202. Reconsideration 147
203. Motion for reconsideration .. 148
204. When permissible 149
205. When to be made 151
206. Practice in House 151
207. Who may make it 152
209–212. Object of, debate, etc. 153–155

XIII.—Debate and Decorum 155
§212. Debate, object of, duties of members 155
213. Debate, beginning of 157
214. Recognition, rules of 158
215. Member can speak but once. 159
216. Relevancy of debate 159
217, 218. Yielding the floor ... 161, 162
219. Informal remarks 162
220. Cessation of debate 163
221–228. Methods of preserving order 163, 168
227, 228. Debate in the United States House 168–170

XIV.—Methods of Voting 171
§229. Three methods 171
230. By sound 172
231. Rising vote 172
232. Yeas and nays 173
233. By tellers in the United States House 175

CHAPTER PAGE
234. Other methods 176
235. Decisions of points of order during 176

XV.—Proceedings Between Co-ordinate Branches of Legislatures 177
§236. Methods of communication .. 177
237. Messages 178
238, 239. Committees 179
240. Conferences 179
241. Object of a conference 180
242. Free conference 181
243. Action of conference committees 182
244. Report of conference committees 183
245. Method of obtaining conference 183
246. Conference report, procedure in assembly 185
247–254. Motions relating to agreement and disagreement between two houses 186–189

XVI.—Order of Business 189
§255–258. Orders of the day 189–191
259–263. Changes in parliamentary law and practical suggestions thereon—Various orders of business 192–195
264–265. Rank of motions 196–198

XVII.—Special Rules 199
§266. Practical suggestions 199
267. Changes in order of business 200
268. Changes in rank of motions .. 200
269. Two-thirds to adopt previous question 202

CHAPTER PAGE

XVIII.—Forms 203
§270. For calling a meeting 203
271. Calling to order 203
272. Chairman 205
273. Parliamentary inquiries 206
274. Points of order 207
275–280. Subsidiary motions 208–210
281–283. Privileged motions 210, 211
284–288. Incidental motions 211, 212

XIX.— 213
§289. United States House of Representatives — Methods of business — Change of rules Fifty-first Congress 213

PREFACE.

It should be understood at once that this Manual has nothing to do with the political differences which have existed as to the rules of the House of Representatives, except so far as any treatise would incidentally refer to them.

The object of this book is to present the rules of general parliamentary law in such a way that the system can be comprehended by persons who may be called upon to preside over meetings of deliberative bodies, and by those who may desire to participate in the proceedings. The aim has been to so explain each motion that it may be understood by itself and also in its relations to other motions. Paragraphs also have been inserted to show the changes made in general parliamentary law by the rules and usages of the United States House of Representatives. This, it was thought, would be useful to enable those who desired so to do to comprehend, in a general way, the practice of that body.

Forms and suggestions have been added. If it should seem to anyone versed in parliamentary law that many of the forms are too simple to need printing, the author ventures to suggest that a beginner does not know the simpler things, and needs them the most.

If the student has once fixed in his mind the idea that parliamentary law is not a series of arbitrary rules, but a plain, consistent system, founded on common sense, and sanctioned by the experience of mankind, he will have gone far toward understanding it. That this little volume will complete his education is too much to expect, but that it will aid and assist the learner is the hope of the author.

THOMAS B. REED.

PARLIAMENTARY RULES.

CHAPTER I.

Introduction.

Origin and Precedents.— Parliamentary law, as it now exists, had its origin as a system in the Parliament of England. Undoubtedly in every country and in every age where assemblies of people were held, some form of procedure became established and was followed. But these forms of procedure have, in many, perhaps most, instances, perished, and would probably be of little use to us now if fully known. The English system itself has been so changed within human memory in every other country where the parliamentary system of government has been adopted, that English precedents afford us little help as to actual procedure. Nevertheless, they are still of much use in determining and illus-

trating fundamental principles. Before the time when Jefferson wrote his little treatise, which is known as Jefferson's Manual, American parliamentary law was, for the most part, an agglomeration of English precedents which were reverenced because they were precedents, and not because they were examples of proper methods of expediting business. Before that time but little effort had been made to reconcile precedents with principles, and parliamentary law was not a system founded on principle and settled by the dictates of reason. It can not be said now to be a perfect method easily adjusted to all cases, but it has been changed for the better, and the change has been brought about in a natural way. Whatever concerns large bodies of men, and is thought over by large numbers of intelligent people, gets infiltrated with the common sense of the many and becomes adapted to their wants and needs. Under a popular government like our own much of the work of government is carried on by bodies and assemblages outside of the regularly constituted legislatures, councils, and legal

boards. As a preliminary to the regular government of the country, conventions are necessary for the nomination of candidates and for the conduct of campaigns. As a means of utilizing wealth by union of limited sums, corporations are formed to enable large enterprises to be conducted. The members of these corporations have to meet to transact business, and the directors chosen by them have also to act together as a body. Many movements in connection with education and with other forms of human progress, including all the movements which have gone on and are going on for enfranchisement of women, require assemblages for very many purposes. Wherever there is an assembly there is need of parliamentary law, so that the assembly may proceed in orderly fashion with as little jar and discord as possible, and accomplish the work to be performed, which work in all instances is to obtain the sense of the assembly and shape its action in accord therewith. This increase of assemblies, the extent of which has been but hinted at, has necessarily brought the law which governs them more and more

into discussion until to-day a tolerable system can be stated which will appeal at once to the good sense of all, and also to the experience of those who have had occasion to be versed in the practice.

Of course, there are disputed points, many questions on which authorities seem to differ, and the practice to be varied. In such cases that rule has been adopted in this Manual which seemed the most practical and sensible, not always in itself, but as a part of a working system.

As has already been intimated, we can have but scant recourse to English precedents, for the difference between English and American parliamentary law is so wide that it would hardly be possible for a parliamentarian, practiced in our law only, to understand the proceedings of the House of Commons. There the previous question kills the bill, with us it only kills the debate. There a motion to adjourn, at least of a certain kind, is debatable, and a motion to adjourn debate can be debated to exhaustion. With us the body must say yes or no to the question of adjournment, and the motion to adjourn debate, at least

in that form, is unknown. There they do not "strike out." They prefer to decide whether or not the words "shall stand part of the question.' A motion to reconsider is not allowed. With us it is altogether too common.

Nor, on the other hand, have we much help from our own popular parliamentary body, the House of Representatives. There a variety of causes have conspired to make the forms of procedure peculiar to itself. Perhaps on the whole it would not be suitable in a treatise like this to specify these causes, but every one recognizes the fact that whether the causes for the slow procedure of the House are proper causes, the fact remains that the procedure of the House is not adapted to the ordinary assembly, and, so far as my knowledge extends, has never been adopted in its entirety by any legislature.

The parliamentary law, then, which we have to describe has grown up among the people for their own uses, and is on the whole well-adapted to the ends they have in view.

CHAPTER II.

Preliminary Propositions.

1. **Understanding Under which Assemblies Meet.**—Every assembly meets with the implied understanding that it will be governed and controlled by the general custom applicable to assemblies, which custom is called general parliamentary law. This is implied from its very existence, since no action can be taken without some rules, and special rules can not be had without parliamentary action. In a word, a lawful assembly met to express an opinion or do an act must have some order of proceeding, and the system which we call parliamentary law, having grown out of the necessities of the case and having been universally acquiesced in, has become the governing law of such assemblies, confidently appealed to by each member. Where special exigencies require it these unwritten rules are supplemented by Special Rules just as the common law is supplemented by statutes. Where the

special rules do not modify, change, or obliterate any rule of general parliamentary law, that rule still governs just as the common law controls where the statute has not modified it.

2. **Nature of Assemblies.**—Assemblies differ, not only in their character as legal or voluntary, but also in the nature of the right of membership. Some require an elaborate organization. Others are best served by the simplest methods.

3. **Voluntary Assemblies.**—An assembly may be a voluntary one, called together by those interested, and of which any one who comes and who answers to the description of those called, can be a member. Political mass meetings, meetings to express the opinions of citizens, and meetings to form associations, are of this class.

4. **Legislative and Constituent Assemblies.**—An assembly may be one constituted by law, and those only can be members who are chosen or appointed by law, or who by virtue of credentials seem to be so chosen or appointed. Constitutional conventions, legislatures, and municipal councils are examples of this kind of assembly.

Other assemblies are constituted under a call by competent authority without special warrant of law, though under its sanction, in such a way that each member of them, though chosen by a voluntary assembly, must present credentials in order to prove himself a member. Political conventions to make nominations are examples of this sort of assembly.

5. Adaptation of Organization to the Assembly.—It is evident from the nature of the case that these different kinds of assemblies require different kinds of organization, not different in character, but in extent. Those assemblies the membership of which can not be in dispute, and the purposes of which are neither numerous nor complicated, can organize permanently at once, and need only a very simple system.

6. Those assemblies the membership of which may be in dispute, and in which individuals have no right to participate without credentials, can not, it is obvious, fully organize until the preliminary question of membership is settled. Such a question is too vital to be postponed, and the results

of a convention or a legislature are too deeply affected by the organization for that to take final shape until the question of membership is settled.

In bodies constituted by law, that chaotic moment when the assembly meets and does not yet know its membership has been fraught with so much disorder, confusion, and discord that there is usually some method pointed out by statute for the preliminary examination of credentials.

7. In the House of Representatives the Clerk of the preceding House makes up the list of members, which list is regarded as conclusive for the time being, and at once the House called to order by him proceeds to permanent organization. Until the Speaker is chosen this Clerk presides.

So important is the initiative of organization, and so dangerous is the situation considered, that various expedients have been adopted for legislative bodies in various countries. We have already stated that adopted in this country in regard to the House of Representatives. In France the Chamber of Deputies is organized by the oldest member taking the chair, with

the six youngest members as secretaries. The secretaries act until the permanent organization, but the presiding officer, who takes the chair by virtue of his age, retains it only so long as is necessary to choose a temporary president and two temporary vice-presidents. The temporary president is then installed, and the assembly proceeds to ascertain who are members. When the membership is ascertained, then the permanent organization is made.

In Italy the chair is taken by the earliest named vice-president of the preceding session, or, if there be none of that session present, then by the one present of the session least remote. If there are none of any session then the oldest member acts.

By the provisions of the constitution of Rhode Island, "the senior member from the town of Newport" is temporary president of the popular branch.

8. Where no provision of constitution or statute exists, and in bodies voluntary in their origin, but requiring credentials to entitle those proposing to act to membership, a preliminary or temporary organization is first had, and immediately the cre-

dentials are examined, usually by the aid of a committee, whose judgment is submitted to the assembly and passed upon by it. The permanent organization is then made.

Quorum.

9. Definition.— The quorum of an assembly is that number which must be present to constitute the assembly a body competent to transact business legally.

10. Number Necessary.—There is no definite rule applicable to all cases. It is commonly stated that in the absence of special regulations, either constitutional, legal, or by order of the assembly itself, a majority of the members is necessary to make a quorum. This statement is inaccurate. In some assemblies whoever comes is authorized to act and bind all the others. In other assemblies the quorum is a majority, and in still other cases all must be present.

11. Assemblies Which Do Not Require a Quorum.— Assemblies which act on their own responsibilities, and which are not representative or judicial, do not

require any quorum. Town meetings in New England, stockholders' meetings, and voluntary meetings generally are of this class.

12. Assemblies Which Require a Majority.—Where the body is a representative one, performing the functions of government for a constituency, or a financial one, managing the business of the corporation which selected it, the quorum is a majority, and can neither be increased nor diminished by the vote of the body. City councils and boards of directors are of this class.

13. Cases Where All Must Be Present.—Where the body is appointed by law, or by virtue of law, to perform a single act, or a series, of acts relating to a single subject, which requires the exercise of judgment and discretion, the whole board constitutes the quorum. All must be present and deliberate, but the majority is competent to act. Referees are of this class.

14. In most public bodies the number necessary to make a quorum is fixed by the constitution or by statute. In volun-

tary bodies it may be fixed by the body itself.

15. The Presence Only of a Quorum Required.— The quorum required to constitute an assembly and render it competent to transact business is a present quorum and not a voting quorum. In all cases, if the number necessary to make a quorum is present, it makes no difference how many or how few actually participate in the decision. Those who sit silent are regarded as consenting to the result. Such was the recent decision of the United States Supreme Court, which decision was in accord with every decision of every State Supreme Court which has ever passed upon the question.

In strictness a chairman ought not to take the chair until after the appearance of a quorum, but in practice in this country he always does; and until a member from the floor or the presiding officer raises the question of quorum a quorum is always supposed to be present.

16. Practice in the House of Representatives.—Under the rules of the United States House of Representatives the

Speaker takes the chair at the hour indicated by the rules or by the special order of the House, and, "upon the appearance of a quorum," proceeds to lay before the House the business in order. In practice, notwithstanding this rule, the business begins as soon as the Speaker takes the chair, a quorum being presumed to be present, and continues until the suggestion of no quorum is made.

Notwithstanding the decision of the United States Supreme Court already mentioned, the Fifty-second Congress continued to require a voting quorum. No one who refused to vote was regarded as present, however visible or vociferous he might be. In the Fifty-first Congress a constitutional quorum, that is, a "present quorum," was required, which practice was pronounced legal by the Supreme Court. (See note, page 217.)

In the French Chamber, where a majority is a quorum, it was decided in 1878 by President Grévy that the presence and not the participation in the vote of 267 members is necessary for the validity of the votes of the Chamber of Deputies.

17. Is a Quorum Required During Debate? — While it is settled that no conclusion can be arrived at, no decision made by a parliamentary body unless the quorum be present, it has not yet been authoritatively and definitely decided in the House of Representatives that the presence of a quorum is absolutely necessary during a debate. In the House of Commons, where forty constitutes a quorum, a member speaking may be taken off his feet on a suggestion to the Speaker that there is no quorum. The Speaker then, after a short interval, and after causing bells to be sounded in the lobby, counts the members in sight, even those whom he can see approaching through the open doors, and if forty can be counted the speech may go on; if not, the House is adjourned and the member speaking is said to be "counted out," which "counting out" is not regarded as flattering.

Reason and analogy would seem to be on the side of the English practice, which is also the practice of the Senate, but where so large a quorum as a majority is required, and where the body is numerous,

there would be much inconvenience caused by insisting on the requirement. In the French Chamber a quorum is not necessary for debate.

18. Quorum in Committee of the Whole.—The quorum of the Committee of the Whole is a majority, unless the assembly should otherwise determine. As the Committee of the Whole is the creature of the assembly, its instrument and means of work, and is merely advisory in its action, any number may constitute a quorum at the pleasure of the assembly.

19. Practical Application of the Doctrine of Quorum.—A quorum is presumed to be present, even if the vote does not indicate it, if no member raises the question. In practice, in large continuous assemblies, the majority of members a great part of the time neither audibly nor visibly vote, being content to assent passively to the result.

20. Adjournment, a Quorum Not Being Present.—If a quorum be not present, and that fact is ascertained by a count by the Chair, or in any other way previously determined by the assembly,

the assembly must adjourn, unless it remains in session to compel attendance. If no time has been fixed for the next meeting, the assembly, even if there be no quorum, may fix the time. Otherwise an adjournment would be a dissolution.

21. Effect of No Quorum in the House of Representatives. — In the House of Representatives the lack of a quorum does not of itself adjourn the House, because under the Constitution a smaller number may be authorized to compel the attendance of absent members. Under the ordinary rules fifteen members, including the Speaker, if there be one, may determine to compel the attendance of absent members. Moreover, the Constitution expressly provides that a smaller number than a quorum may adjourn from day to day, which takes from the Speaker the power which the English Speaker has to declare the House adjourned on his own count. For the same reason, probably, the rules of the House provide that the Speaker shall take the chair irrespective of the question of the presence of the quorum.

22. A Practical Suggestion. — All bodies which have the power to determine their own quorum after organization, and after the time and place of subsequent meetings have been fixed, or the method of calling other meetings has been determined upon, so as to avoid double meetings, should reduce the quorum, at least for ordinary business, below the majority. Such a course will be found much more convenient and just as safe.

23. Rule of the Majority. — Unless by organic law or by virtue of rules adopted by an assembly, the number required for an affirmative decision is increased above a majority, the majority rules. The general principle of decision is the natural one that the majority shall govern. Any increase in the requirement is of course in the interest of conservatism.

24. Unanimous Consent. — By unanimous consent an assembly may do anything which it is competent to do, and that notwithstanding any rule or regulation, or any provision of parliamentary law, to the contrary.

25. Election of Officers by Plurality.—Officers are sometimes, under a Special resolution, elected by a plurality of votes, as in the case of the election of N. P. Banks as Speaker of the Thirty-fourth Congress. But in this case the action of the minority had the antecedent sanction of the majority; that is, the majority had voted that whenever any member had a plurality of votes he should be Speaker, whoever he might be.

CHAPTER III.

Organization.

26. The Object of Organization.—The object which a body of men assembled together has in view when it organizes is to provide itself with means whereby it may express its opinions, facilitate and control its actions, and thereby accomplish the purpose of the meeting. The organization therefore should be adapted to the nature of the work to be done.

27. Simple Organization.—Assemblies called together for a single purpose, and

intending to have but a single session, may be organized in a very simple way. Indeed, in practice, such assemblies are organized at the will of those who called them. Some one of those who signed the call, or some one designated by them, at the appointed time rises in his place and asks those present to please be in order. Thereupon he himself proposes that Mr. A. shall act as chairman, or he asks for nominations for the position. Usually there is no question made, but if there is, and other nominations are made, the question is put to the assembly by the person who has called the assembly to order upon the first nomination, and if that be rejected, then upon the second, and so on until a presiding officer is chosen. The second and third and other nominations are not in the nature of amendments, and are not entitled to be put first. After the presiding officer has been chosen, he takes his place facing the assembly and suggests the nomination of a secretary, who is chosen in the same manner as the chairman. This is all the organization absolutely necessary. It is the custom to add lists of vice-presidents

and to choose additional secretaries. Such an organization is all that is needed for ordinary voluntary meetings, like mass meetings and meetings preliminary to the formation of societies.

28. Double Organization.— The simple organization described above is proper for assemblies where there is no question about membership, but assemblies which are composed of members who have credentials and certificates of election, and whose membership may be contested, usually have a double organization, the first being merely preliminary in order to ascertain the membership, and the second a permanent one made by the members for the purpose of conducting the business intrusted to their care.

29. Double Organization, continued. Temporary.—This first or temporary organization may be made substantially as described in the paragraph on simple organizations. Usually, however, there is either some officer holding over for that purpose in legislative or in religious assemblies, or some chairman of the district, county, or State committee who

calls the meeting to order and thus commences the organization. The first duty of the temporary organization is to ascertain the membership, and that is the first and only business in order. This is usually done through a committee, who examine the credentials and certificates of election and report to the assembly, and when that report is adopted the assembly is ready for its permanent organization.

30. Double Organization, continued. Permanent.—The permanent organization may be made by a vote of the assembly declaring the temporary organization permanent, or the assembly may proceed to the selection of other officers. This selection may be made by nomination and election, by resolution, or, which is the most usual course, on the report of a committee on permanent organization.

31. Legislative Bodies: United States House of Representatives.—It would be impossible within the limits of this book to describe the different methods of organization of legislative bodies which prevail in the different States, since the methods are various. A description, however, of

the organization of the United States House of Representatives will give a very good idea of the general plan adopted.

The Clerk of the preceding House is required by statute to make up a list of the members-elect of the new House, and the certificate of election of each member is sent by the member to him. He then makes up the list of members, deciding the question of membership according to his judgment of the law and the evidence in each case where there is a dispute. On the first Monday in December, if no special session is called, he presents himself in the hall of the House, at the Clerk's desk, and at 12 o'clock, noon, calls the members to order. He then causes to be read the list prepared, and each member present answers as his name is called. After the roll-call is finished, if a quorum is present, the Clerk announces that the first business is the election of a Speaker, and asks for nominations. Each party then, by one of its members, nominates its candidate, and the Clerk requests four members to act as tellers. The roll is then called, each member announcing *viva voce*,

as his name is called, his preference. The tellers then announce the result to the Clerk, and the Clerk to the House. If no candidate has received a majority, the roll is again called. If a Speaker has been chosen, the Clerk announces that fact and requests two members, one of each party, to conduct the Speaker to the chair.

Upon taking the chair the Speaker, after a short address of thanks, announces that he is ready to take the oath. Thereupon he has the oath administered to him by the member oldest in consecutive service. The Speaker then administers to the members the oath of office. The oath is administered to as many at a time as can conveniently stand in the open space in front of the Speaker's desk. After the members have taken the oath the Clerk and other officers are elected, usually by resolution, which can be amended. After the organization has been completed by the choice of all the officers, the House, by vote, notifies the Senate of its organization by message delivered by the Clerk. When the Senate has been organized the House and Senate, by a joint committee, notify

the President that both houses are ready to proceed to business.

CHAPTER IV.

Necessary Officers and Their Duties.

32. Presiding Officer.—The first officer to be chosen is the presiding officer. In New England town meetings and in religious assemblies he is called the moderator. In the popular branches of legislatures he is usually called Speaker. In senatorial bodies, conventions, and the like, President; and in other assemblies, and in committees, Chairman. He is in this country invariably addressed by his title. In the House of Commons the chairman of Ways and Means is addressed by his name, "Mr. Courtney," "Mr. Mellor."

33. Qualifications.—The presiding officer, especially if any complicated business is to be transacted, should be a man of good presence, good voice, of much firmness, and good temper. He should have knowl-

edge of parliamentary law, and sufficient good sense to enable him to know when to press a rule and when to let common consent have its way. The conduct of an assembly depends much more upon the conduct of the chairman than upon any other condition, or perhaps all other conditions combined. The more intelligent the assembly the worse it may act under a bad presiding officer.

34. Duties.— It is needless to say that the duties herein enumerated do not all devolve upon every presiding officer, nor do those hereafter enumerated as the duties of a recording officer fall upon every clerk or secretary. How many devolve upon either depends on the nature of the assembly.

It is the duty of the presiding officer:

To call the assembly to order at the time appointed for the meeting.

To ascertain the presence of a quorum.

To cause the journal or minutes of the preceding meeting to be read and passed upon by the assembly.

To lay before the assembly its business in the order indicated by the rules.

To receive any propositions made by members and put them to the assembly.

To divide the assembly on questions submitted by him and to announce the result.

To decide all questions of order, subject to an appeal to the assembly.*

To preserve order and decorum in debate and at all other times.

To enforce such of the rules of the assembly as are not placed in charge of other officers, or of which the enforcement is not reserved by the assembly.

To answer all parliamentary inquiries and give information as to the parliamentary effect of proposed acts of the assembly.†

---

*There is no appeal from the decision of the Speaker in the House of Commons.

†Parliamentary inquiries occupy a peculiar position. They are of the nature of privileged motions, and are indulged in at the pleasure of the presiding officer to enable the assembly to understand the effect of the proposed action. The presiding officer always answers them, unless the answer would anticipate the decision of a point of order which he may prefer to have discussed before deciding.

To present to the assembly all messages from coördinate branches, and all proper communications.

To sign and authenticate all the acts of the assembly, all its resolves and votes.

To name a member to take his place until adjournment of the meeting.

And in general

To act as the organ of the assembly, and as its representative, subject always to its will.

35. Points of Behavior.— The presiding officer should treat all members as equals of each other and of himself, and should decline all personal disputes.

He should rise when putting a question to the assembly, and also when addressing the assembly.

He may, while sitting, recognize a member for the purpose of giving him the floor.

He may also sit while reading to the assembly any communication.

36. Power of Assembly Over Presiding Officer.— A presiding officer elected by an assembly may be removed by the assembly whenever such a course seems suitable to the body.

37. Substitute Officers.—It very frequently happens that the assembly itself designates the members whom it desires to take the chair whenever the chairman for any reason is obliged to leave it. Such substitute officers, whether called President *pro tempore* as in the United States Senate, Deputy Speaker as in the House of Commons, or Deputy Chairman, take the chair whenever the circumstances require it.

38. Appointed by the Chair.—The appointment of a member by the Chair to act in his place is always limited in point of time by the adjournment of the meeting at which the appointment is made, and is always subject to the action of the assembly. The assembly can at all times control the occupancy of the chair. When the presiding officer is absent, and no appointment has been made, the clerk calls to order, and then, on nomination from the floor, a temporary presiding officer is chosen.

39. In the House of Representatives the Speaker has the right to name any member to perform the duties of the chair, but such

substitution can not extend beyond an adjournment; but in case of his illness he may appoint for not more than ten days, with the approval of the House at the time the appointment is made. Under the practice of the House these appointments may be made in writing.

40. Right to Debate.—Where the presiding officer is a member of the assembly, his right to participate like other members in the debates and in the action of the body admits of no question. That he should not participate in the debates, except on very extraordinary occasions, is equally beyond question. A presiding officer, to be efficient, must not only be impartial as between individuals, but must appear so. His influence and control of the assembly largely depends upon this. While he occupies the chair all its influences tend to keep him in the judicial frame of mind. Few men are so one-sided that a short season on the bench does not convert them to impartiality. It is so with the chair of an assembly. Participation in the rough and tumble of debate has just the opposite tendency. Debate very

often produces harsh feelings, gives rise to sharp expressions, and even to personal enmities. None of these things add to individual respect or esteem. In addition, the position of presiding officer is one of great power. He can not, when he descends to the floor, divest himself of his power and influence as representative of the whole body. It seems hardly fair that this should be thrown into the debate.

These considerations have in the course of time proved so potent that a presiding officer rarely takes the floor, and seldom votes except to take his share of responsibility on great occasions, and to give the casting vote. Nevertheless, there are occasions when the occupant of the chair may properly take the floor, and of these occasions he must be the sole judge, having in view all the considerations.

41. Clerk.— The next officer needed is the clerk, sometimes also called the secretary, and sometimes the recorder. He may be chosen after nomination by *viva voce* vote, or by resolution, or by ballot. If but one clerk is chosen, and he is at any time absent, his place must at once be filled,

since the assembly can not be said to be organized without a Clerk and a Speaker, and an assembly must not only be organized, but must stay organized.

42. Qualifications.— The clerk should have some knowledge of parliamentary law, should be careful, observant, and attentive to his duties. Either he or his assistant should be a good reader, with a clear voice, capable of being heard in all parts of the place of meeting, even where there is considerable confusion. Too much stress can not be laid upon this qualification, since bad reading, ill understood, breeds confusion, disorder, and misunderstanding. He should also be able to express himself accurately in writing.

43. Duties.— It is the duty of the recording officer:

To read all papers the reading of which is demanded by the presiding officer, the assembly, or its rules.

To prepare and keep an accurate list of members.

To call the roll whenever the yeas and nays are ordered, or when the presence of members is to be determined by that

method, to note the responses, and to communicate the result to the presiding officer.

These duties are to be performed standing.

To take down motions as fast as presented to the Chair, and, in general, keep such a temporary record of what is taking place as will enable the chairman to keep the business in orderly condition.

To preserve on file all documents and papers which belong to the assembly, or which are made part of the proceedings.

To authenticate by his signature, either alone or jointly with the presiding officer, all acts, resolves, and proceedings of the assembly, except where by law other authentication is required.

To note and furnish to the chairman of each committee a correct list of its members.

To notify committees of all business referred to them, and to send them all papers laid before the assembly relating to such business.

To keep a journal, or minutes, of each meeting.

44. Substitute Clerk.— Where several

clerks, or secretaries, are chosen, the first selected, or the first on the list when they are chosen altogether, is considered the chief. In his absence the next in order acts in his place. Where only one is chosen, and he is absent, his place must be filled at once by a clerk chosen to replace him temporarily or permanently as may be needed.

45. Right to Debate and Vote. — Where the recording officer is a member of the assembly he has the right to debate and to vote and to participate in the proceedings in all ways not inconsistent with the duties of his office, which he must perform or resign.

46. The Journal, or Minutes. — The journal of a representative body should ordinarily confine itself to what has been done. What has been proposed but not regularly presented or acted upon, and what has been said which has not resulted in any act, either of indorsement or rejection, has no place in the journal of a deliberative body. Such is the strict rule, and should always be followed where the object is to furnish a legal record.

The minutes, however, of an assembly not legislative in its character may have an object beyond the mere record of things done. To the constituency to which they are addressed, as in the case of religious convocations and political assemblies, what was said may be as important as what was done. In that case the minutes very properly become more full and extensive, partaking of the nature of a report and recording expressions of opinion and remarks, as well as the mere action of the assembly.

This difference, however, regulates itself by adaptation to the needs of each assembly. With the extended newspaper reports of modern times, very full minutes are not as much needed as formerly for purposes of information.

47. Other Officers.—A presiding and a recording officer are all that are strictly needed for a parliamentary organization as such, but as the comfort of the assembly is of importance, other officers are usually selected, such as a sergeant-at-arms to assist the chairman in maintaining order, and in the United States House of Repre-

sentatives to act as a paymaster, a treasurer to receive and pay out money, a postmaster to have charge of the mails, and a door-keeper to prevent intrusions upon the assembly. All these officers are chosen by the assembly in the various ways already described, or may be appointed by the chairman at the will of the body. Their duties are not fixed by parliamentary law, but by the regulations of the assembly.

CHAPTER V.

Rights and Duties of Members.

The rights and duties of members are easy to state, but most difficult to enforce.

48. Rights of Members.—The rights of each member are based upon the doctrine of his equality with every other member. He has therefore the right to present his propositions and to debate them fully. But as the right of each member leaves off where the rights of others begin there must be much mutual forbearance between each member and the assembly. Each

member has a right to demand that the assembly be in order, and may rise to demand the same. He may also interrupt a member not in order, but he must exercise his rights in such a manner as not to increase the disorder.

49. Duties of Members.—The duties of each member are based upon the considerations which arise from his being a component part of the assembly, which desires to act together and which, in order to act together, must come to some agreement.

The member must maintain order and refrain from conversation.

He should not engage in any other business than that before the meeting. He should not walk between the member who has the floor and the presiding officer. He should not interrupt the member speaking except by his consent. It seems superfluous to say that he should not wear his hat, or put his feet on the desk, or smoke, for in all ways the member of an assembly should act properly.

He should not use injurious expressions.

He should not make use of even proper parliamentary motions to create discord or

impede unreasonably the action of the assembly.

In short, as the object and purpose of an assembly is to enable men to act together as a body, each member ought to so conduct himself as to facilitate the result, or at least so as not to hinder it.

50. It will be seen that the rights and duties of members are somewhat difficult of enforcement, except by general comity.

Yet they should always be borne in mind and insisted on; for the creation of healthy public sentiment in an assembly is as important for its success as the observance of the laws of politeness is necessary to the comfort and well-being of a community. Decorum is usually treated of in connection with debate, but is as necessary and as much required at other times as when discussion is going on.

CHAPTER VI.

Rules and Orders.

(See also Chap. XVII.)

51. Why Special Rules are Needed.—From what has already been said it will be seen that parliamentary bodies differ so much in their nature, in the number of their members, and in the functions which they are to perform that it would be impossible that they could all be governed with equal advantage by a common system of parliamentary law. The only system which could establish itself by common consent would be one which, while it was not perfectly adapted to any one assembly, yet could be used by all, and would be that system which could be the easiest modified so as to be adapted to all.

Hence, while the rules of general parliamentary law are perfectly adapted to simple ordinary assemblies, especially those which are to be convened for but a short time and have but a limited amount of business to transact (and such assemblies

need not trouble themselves about special rules), assemblies which are to be sometime in session and which have much business to do, adopt, as soon as possible after organization, rules specially adapted to their needs.

52. Alterations of Rules.— While it concerns certain kinds of assemblies to adopt a set of rules at once, yet it is not possible to make such a set of rules complete and perfect at once. After experience modifications are almost always found to be necessary. Such modifications the assembly is always competent to make. Such changes can be made by a majority. This is true even if the rules already adopted provide that two-thirds or any larger number alone shall make changes. The assembly can not deprive itself of power to direct its method of doing business. It is like a man promising himself that he will not change his own mind.

53. Suspension of Rules.— Unless the rules themselves provide for their own suspension they can be suspended by unanimous consent only. It is usual to provide that under certain circumstances

and at certain times two-thirds may suspend the rules.

54. Suspension of Rules, House of Representatives. — In the United States House of Representatives the rules can be suspended by two-thirds on the first and third Mondays of each month and during the last six days of a session. On the first Monday preference is to be given to individuals and on the third Monday to committees. As the power of recognition to take the floor rests with the Speaker, all motions to suspend the rules are very much under his control. The motion to suspend the rules is not a privileged motion, but depends upon the recognition of the Speaker. In all sessions except the last, which expires March 4th, the six days do not begin until House and Senate have agreed upon a day for final adjournment.

55. Practical Suggestion. — If the assembly desiring to adopt a special set of rules is a legislative body or a religious convocation, its committee to prepare rules will undoubtedly adopt, with or without modification, the rules of its predecessors, or at least make them the basis of its recom-

mendations. If no such guide for the assembly exists then the rules of the popular branch of the State Legislature will afford the best basis, since they are likely to be best known and to accord best with the wishes of the members. (See, however, Chap. XVII.)

56. Government of Assemblies in the Absence of Rules.—Where no special rules are adopted the assembly is governed by general parliamentary law, and where rules are adopted general parliamentary law governs, except where its provisions are changed by the rules themselves.

57. General Parliamentary Law.— It is usual to say that general parliamentary law is derived from the practice of the British Parliament as modified by the parliamentary customs of this country; but the difference between the system in use here and the English system is so great and so radical that it would perhaps be more accurate to say that American general parliamentary law, while it acknowledges its English origin, rests upon the practice of American assemblies.

CHAPTER VII.

Committees.

58. Nature and Need.—The committee is the eye, and ear, and hand, and very often the brain, of the assembly. Freed from the very great inconvenience of numbers, it can study a question, obtain full information, and put the proposed action into proper shape for final decision. The appointment of a committee also insures to the assembly the presence during the debate of members who have made some examination of the question, and tends to preserve the assembly from its greatest danger, that of being carried away by some plausible harangue which excites feeling, appeals to sentiment only, and obscures reason.

59. Kinds of Committees.— Ordinary committees are divided into two kinds, standing and select, and rank in the order named. Standing committees are permanent; select committees are temporary. There are also joint committees, confer-

ence committees, and committees of the whole.

60. Standing Committees.— Standing committees can be appointed at any time, but are usually selected at the beginning of the session, and to them are referred all matters relating to the subjects of which they are in control. Generally the rules prescribe the jurisdiction of each committee, but the reference of each matter is always under the control of the assembly, the members of which, however, in case of a vote on a reference, ought not, any more than in any other case, to transgress their own rules.

61. Select Committees.—A select committee is one chosen to take charge of a special subject. Investigations are usually conducted by special committees, though the standing committees frequently do this kind of work. Committees of conference are select committees, but are usually made up of members of the standing committee having charge of the subject.

62. Joint Committees. — These are committees made up of members of both branches of a legislature, and may be

either standing or select. In some legislatures the committees are joint, and the preliminary work of legislation is substantially done by joint committees. Such a committee system has much to commend it, since one hearing does for both branches, and each knows the arguments and testimony presented to the other.

63. Conference Committees.— A conference committee is a committee appointed by one branch to meet a similar committee appointed by the other branch of the legislature where the two bodies have come to a disagreement as to legislation. At the conference there is an examination and discussion of the points of difference, and an effort at agreement by adopting the action of one house or the other, either as it stands or with amendments. Each conference committee is composed of an odd number, and the majority should represent the majority of the body appointing, and be in accord with the action of the body. To constitute such an agreement as will authorize a report to the two bodies a majority of each committee must assent. The report when made

is privileged; that is, is always in order, because of the courtesy due between the two houses, which are on that subject nearer an agreement than on any new subject, and for the furtherance of the necessary joint action. (See Sec. **246.**)

64. Selection of Committees.— Committees of all kinds may be appointed in several different ways:

By the presiding officer.

By resolution.

By nomination and vote.

By ballot.

The member who makes the motion for the appointment of the committee is not by parliamentary law entitled any more than any other member to be the chairman, or even a member of the committee. The assembly can not be restricted in its choice.

65. Appointment by the Presiding Officer.—The method of selection of committees most in use in this country is by appointment by the presiding officer. This is because of the greater convenience of this method, and because, being chosen to represent the assembly generally, he is

supposed to best understand its will. In assemblies which have a presiding officer not chosen by itself, and not a member of the body, there are no reasons why the appointment should be made by him. In the United States Senate, where the permanent presiding officer is not chosen by the Senate, the committees are selected by the Senate itself. In practice the dominant party announces to the minority the number of places they can have on the committees, and each party selects its own members by the aid of a nominating committee.

66. Selection by Resolution.—A committee may also be selected by a resolution which creates the committee and contains the names of those of whom the mover desires to have it composed. Such a resolution is subject to amendment.

67. Selection by Vote.—After it has been decided that the committee shall be created, any member may move that any other member, mentioning him by name, be of the committee, and after all of the nominations are made, the presiding officer puts the question on each in the order in which each was nominated.

68. Selection by Ballot.—Selection by ballot is rarely resorted to, because so much time is thereby consumed; but when resorted to, the committee may be chosen on one ballot, or each may be separately balloted for, as the assembly may direct.

69. Principle of Selection.—It has been said to be the rule that no one should be on the committee who is not favorable to the principle of the bill or action sought for. This proceeds upon the idea that the sole duty of a committee is to get into proper shape, by proper modifications, what has been committed to it. In some cases this would be so, and the committee should be selected with this in view; but as a general rule the committee, as a whole, should represent the assembly, and its views as far as they have been developed. At the same time the committee in its membership should represent, as far as practicable, the different views of the members of the assembly. This insures in the discussion which follows the report such a full presentation of all views as will enable the assembly to decide wisely and with full knowledge.

Committee Procedure.

70. Place and Time of Sitting.—The place and time of sitting may be regulated by the committee itself, unless the assembly gives directions, but the committee can not sit without leave during the session of the assembly. If the committee is sitting without such leave when the main body resumes its session, the committee is thereby adjourned. If the assembly has directed the time and place of meeting and the meeting is not had for any cause, new directions must be obtained from the assembly before any further action; otherwise the committee can not act.

71. Organization. — The committee usually has its chairman named for it by the assembly, but if no chairman is designated the committee may elect. Usually the member first named acts as chairman, but the committee in the absence of direction by the assembly has control of the question. Where a clerk is not provided the committee must complete its organization by the choice of a secretar .

72. Quorum.— The quorum of a committee is a majority unless the assembly otherwise directs.

A committee can of course act by a majority of those present, a quorum being present, but except in cases where the main purpose is to give the assembly a chance to act it would be unwise to be too technical in important cases. The report of a committee being merely advisory, the fact that a majority of all the members of the committee, had they been present, would not have been in favor of the course reported would naturally deprive it of much of its advisory force.

73. Duties of the Officers.—The duty of the chairman is to call all meetings, to preside over them when the committee is assembled, to make all reports to the assembly when the committee does not otherwise order. The duty of the clerk, under direction of the chairman, is to notify members of meetings, and to keep minutes of each meeting. It is his duty also to have custody of all papers sent to the committee, and to transmit them to the clerk of the assembly, when the committee shall cease to have them in charge.

74. Method of Procedure. — The method of procedure in committee is very much the same as in the assembly itself, making allowance for the difference in numbers. It would naturally be less formal. When a paper, either a bill, resolution, or proposed legislation of any kind, is referred to it, the natural course is to have the whole paper read, so that the project in its entirety may be comprehended; then each paragraph is read separately for observation or amendment, and then the committee directs a report to be made by some member, who presents his report to the committee, who approve of it, and thereupon it is by him presented to the assembly. If no other member be designated the duty to report falls upon the chairman.

75. Views of the Minority.—The majority of members determine the report of the committee, and their views constitute the report. Other members sometimes desire to present their views in opposition. This they have no right to do except by consent of the assembly. Such consent is, however, rarely refused.

76. Proceedings Continued.— It is not usual, at the present time at least, in legislative bodies, to send original papers to committees to be acted upon, but if they are so sent the committee has no right to alter or amend by erasure or addition such papers. All alterations must be proposed on a separate paper, designating clearly the changes to be made, and the report of the committee should in all cases make such explanation as will enable the assembly to clearly comprehend the changes proposed by the committee.

77. Substitute Bill.— Where changes are numerous and otherwise not easy to be understood, the best way for a committee to do is to report the bill or paper in a new draft as a substitute for the paper committed. This substitute could then be regarded as an amendment or be acted on as an original bill, as the committee may determine.

In the House of Representatives the bill reported as a substitute is treated in the House as an original bill, and not as an amendment of the bill referred.

78. Secret Meetings.—Unless the com-

mittee otherwise directs, its meetings are open to other members of the assembly, but the committee may, if they so direct, exclude all persons from their meetings.

79. Procedure in Committee Must Be Had at a Meeting.— All action of a committee must be taken at a regular meeting duly called, or where all are present. No action can be taken by members not in meeting assembled. The consent of all, individually, without a meeting will not render valid any action. It is conference, and after that consent, and not consent alone which is required.

Action of Committee Before the Assembly.

80. Presentation of Report. — When the member of a committee charged with the duty presents the report of a committee to the assembly it is for immediate action, unless the rules otherwise provide. If, however, anyone desires to raise the question of immediate consideration, he does so by demanding that the question

be put upon the reception of the report. If this motion be decided in the negative, the committee must wait a more favorable season. If in the affirmative, then the clerk reads it to the assembly, and it becomes the subject of action like any other business.

In the House of Representatives a right given to a committee to report at any time implies the right to ask immediate consideration, notwithstanding the rules.

81. Consideration of Reports. — A committee report may be adopted as a whole, and in that event becomes the action of the assembly, but the reception of a report does not adopt it. It only brings it before the body for adoption, or rejection or modification. Where not much formality is needed, and the assembly is in accord, a simple motion to adopt the report disposes of the question. These remarks and those in the next paragraph of course apply only to reports which are themselves intended to express the opinions of the assembly, and not to those reports which are but explanation of action advised. (See Sec. **82.**)

82. Consideration of Reports, continued.— But where the members of an assembly desire modifications, and amendments are offered, the report, if the form and the language of the report constitute the real question, is to be treated like any other question and subject to the same rules. It can be amended and modified and is subject to all proper motions.

83. Consideration of Reports Involving Action by Bill or Similar Proceeding.—Where the report of a committee is merely explanatory of the bill or action recommended, it is merely advisory, and is read solely for the information of the assembly, and action is had on the bill or order which is alone the subject of the procedure. Such a report when printed for the assembly is not read.

84. Committee Amendments. — The amendments proposed by the committee, which are usually explained by the report, are first to be voted on, because they are the first proposed to the assembly, and are in fact offered by the assembly itself, which clothed the committee with power to examine the question.

85. Relation of the Committee to the Report After it Has Been Received.—After the reception by the assembly of the full report of a select committee on the subject referred to it the committee ceases to exist. This is not true where the report is only a partial one. A standing committee after a full report, while it continues to exist, has no further control of the matter reported on without a new reference.

While such is the case the members of the committee are usually regarded by the presiding officer as specially suited, from their examination in committee of the question, to inform the assembly, and therefore, other things being equal, have preference in debate. The member reporting is also regarded as having the measure in charge. In the House of Representatives this preference is carried so far that the Speaker usually gives complete charge of the bill to the reporter of it, and the members of the committee have absolute preference in the debate. In ordinary assemblies this is rather the natural but by no means the necessary course.

86. Committee of the Whole—Origin. — This is but the assembly itself in another form, since the membership is identical. It had its origin in a condition of affairs which has now no parallel. In former times the Speaker was selected by the House of Commons, but must be acceptable to the King. Hence it came to pass that the Speaker began to consider himself the servant of the crown rather than of the Commons, and betrayed their secrets, and was often but the king's spy. For that reason the Commons, when they desired to discuss questions of supply, resolved themselves into a Committee of the Whole, had a chairman of their own, and shut the Speaker out. Thereupon they deliberated and spoke their real sentiments.

87. Committee of the Whole—Methods of Procedure — Organization — Chairman.— In modern times the presiding officer of the assembly when the assembly resolves itself into the Committee of the Whole names the chairman, and his choice is almost invariably acquiesced in. It is sometimes said that the Committee of

the Whole, like other committees, has the right to select its own chairman. Although this statement has the help of distinguished authority, it is contrary to the English precedents and to sound parliamentary sense. If there be any question about the chairman, the assembly should settle it, and if the question is raised after the committee is in session the committee should rise, report to the assembly, and take its direction. The appointment of the chairman being made before the assembly goes into committee, the proper time to raise any question of that sort is then.

88. Committee of the Whole — Clerk. — The clerk of the assembly acts as clerk of the Committee of the Whole, but keeps no record of its proceedings except such temporary record as will enable him to aid the chairman in the orderly conduct of the business. The report which the committee makes to the assembly is its record, and becomes part of the proceedings of the assembly.

89. Committee of the Whole — Quorum. — The same number constitutes a quorum in the Committee of the Whole

which is necessary in the assembly itself, but the assembly may fix the number to suit itself, the committee being but the creature of the assembly like any other committee. Whenever it appears that a quorum is not present the committee rises and reports the fact to the House, whereupon the roll is called, and if a number equal to the quorum designated for the committee responds, the committee resumes its session at once.

90. Committee of the Whole — Yeas and Nays.— In the Committee of the Whole the yeas and nays can not be called, whereby the original purpose of the committee is in a measure subserved and the doings of the members and parties sometimes escape the notice of the modern sovereign, the people.

91. Committee of the Whole — Debate.—Debate in Committee of the Whole tends more to informality than in the assembly. Each member may speak as often as he can get the floor, and there is no limit to be placed on debate by the committee. Debate can not be adjourned; for a motion to postpone either indefinitely

or to a day certain is not in order, nor can the previous question be called or the subject be laid on the table. The only way in which debate can be limited is by order of the assembly.

92. Committee of the Whole — Adjournment. — The Committee of the Whole can not adjourn. The motion which, when carried, terminates its session is a motion that the committee do now rise. Thereupon the committee rises, the presiding officer takes the chair, and the chairman of the Committee of the Whole makes his report.

93. Committee of the Whole — Report. — If the Committee of the Whole has not finished its consideration of the question submitted to it, the chairman reports that the Committee of the Whole has had under consideration the question (describing it), and has come to no resolution thereon. If a conclusion has been reached the chairman reports that the committee has had under consideration the question (designating it), and recommends that the bill do pass or that the report be adopted, with or without amendment or other action, as the case may have been.

94. Committee of the Whole — Preservation of Order. — The Committee of the Whole has no power to punish for disorder. Any disorderly behavior should be reported to the assembly for its action. Whenever the disorder is very great the presiding officer of the assembly should take the chair and restore order. This has several times been done by the Speaker of the House of Representatives and by the Speaker of the House of Commons. When order is restored the Speaker leaves the chair and the committee resumes.

95. Committee of the Whole — Subjects Usually Intrusted to. — In assemblies not legislative it is rarely worth while to go into the Committee of the Whole, since this form of procedure is a complication unnecessary except in a certain class of cases. The Committee of the Whole is useful where the subject to be considered contains many items and relates to divers subjects, or needs to be settled minutely as to the language.

In legislatures bills making general appropriations and those containing items of governmental expense are those most fre-

quently considered in Committee of the Whole.

96. Committee of the Whole—House of Representatives.—By the usual rules of the House of Representatives there are two Committees of the Whole. "The Committee of the Whole House on the State of the Union" and "The Committee of the Whole House."

The first-named committee may sit on any day, and has charge of all public bills which appropriate money or property or require appropriation thereafter of the money or property of the United States. The second can sit on Friday only, and concerns itself with private bills alone. In both committees there are two kinds of debate, general and under the five-minute rule. The general debate confines each member to one hour, the five-minute debate to five minutes each. The general debate is on the whole bill, the five-minute debate on amendments to each item. In the Committee of the Whole on the State of the Union almost anything is liable to be debated. It has been frequently held that the member is not, in Committee of the

Whole on the State of the Union, in general debate, confined to the subject directly before the committee unless the proposition is a special order.

97. Committee of the Whole — Sub-committees.—While all other committees, special or standing, except, perhaps, conference committees, can have sub-committees as instruments for work, the Committee of the Whole can not from its very nature have such adjuncts, and a motion to refer to a sub-committee would be entirely out of order.

98. Committee of the Whole — Future Sittings.—An assembly may determine upon the future sitting of the Committee of the Whole, and in some assemblies it is in order, when the committee rises without finishing its work, to report progress and ask for leave to sit again and to have the time then appointed, but this is not customary in this country. Whenever the assembly sees fit it resolves itself at once into a Committee of the Whole after having directed the committee what subject to take up. If no subject be specified, then the unfinished business of the

former meeting becomes the subject first to be considered, and then the first subject on the calendar of things previously committed, if there are any.

99. Practical Suggestions.— In order to make the debate in Committee of the Whole valuable, and to give each member a chance to debate the question in all its particulars, there should be by rule a limitation of time, and the five-minute rule of the House of Representatives is a very good one for practical purposes, either with or without general debate. General debate, if permitted, could most advantageously be limited to ten or fifteen minutes for each member. While the United States House allows an hour for each, it is in practice very frequently divided into much shorter periods.

CHAPTER VIII.

Conduct of Business. Disposal of the Main Question.

100. Forms of Action by an Assembly.— All the proceedings of an assembly

which ripen into a result do so by a vote, and hence we can say of all action that it was the vote of the assembly and that the action was by vote. There are, however, different forms in which different kinds of actions are put. If an assembly desires to direct something to be done by its committees or its officers, or by any subordinate body, its will is expressed by means of an order. If it desires to express its opinion or purpose, or make a statement of facts, a resolution is the usual method. If a legislative body it enacts laws by means of a bill which when passed by all those entitled to act on it becomes "an act."

101. Introduction of Business.— After an organization has been had the assembly is then ready to proceed to business. The beginning of business is its introduction by a member. Only members have a right to present business to the assembly. The presiding officer may lay before the assembly certain kinds of business, but this is always by virtue of law. The presiding officer is under no obligation to present any communication sent him by persons outside the body over which he presides.

That would be to confer upon outsiders one of the attributes of membership. The only way in which a person not a member can reach the assembly is through a member.

102. How Business May Be Introduced.— Whenever a member desires to introduce business he rises in his place and addresses the presiding officer by his title, as "Mr. Chairman," "Mr. Moderator." The Chair thereupon recognizes the member, and says, "Mr. A. has the floor," or simply, "Mr. A." The member then has the floor, and states his proposition, which must be reduced to writing at the request of the Chair or any member. Thereupon the chairman states or puts the question to the assembly, and after the question has been thus proposed the assembly is said to be in possession of the question.

It will be seen by the proceedings just described that the member in order to introduce business must first obtain the floor, and in order to obtain the floor must first be recognized by the Chair. Until the member has the floor the proposal of business is not in order, but the member

may state his purpose in rising if he demands the floor to introduce a privileged motion or any motion which has prior right, such as a motion to adjourn or a point of order.

103. Motion Must Be in Writing.— The motion should always be in writing or reduced to writing at the clerk's desk. If required by the presiding officer or any member the member must present it in writing. This applies only to the main question and to such motions as are variable. The common motions, which are always in the same form, may be presented orally.

104. The Second.— After the motion has been made it must have the support of another member, who rises in his place and says, "I second the motion." This requirement of a second is based on the idea that if the motion has no other friend than the mover it is hardly worth the while of the assembly to spend time on it.

105. Second in the House of Representatives.— No second is required in the House of Representatives to an ordinary motion. The motion to suspend the rules

requires a second if demanded, which must consist of a majority of the members present, ascertained by tellers.

106. Petitions.—A petition should be signed by the petitioner and must be presented by a member, who rises in his place, states the contents, and moves that it be received. When this motion is seconded it is proposed to the assembly, and the assembly decides to receive it or not. Usually, however, a petition is received without even the formality of a motion, but the question of reception may be raised by any member. When received it is to be acted on like any other kind of business. It may be the subject of a resolution, or order, or bill, or may be referred to a committee, or laid on the table, or postponed.

107. Petitions in the House of Representatives.— Petitions in the House of Representatives are indorsed by the member presenting them with his name and the reference or disposition to be made of it, and presented to the Clerk by being placed in a box affixed to the Clerk's desk; and these petitions, except such as in the judg-

ment of the Speaker are of obscene or insulting character, are disposed of by reference as requested by the member, in accordance with the rules, and entered on the Journal and published in the *Record.*

108. Motion When in Possession of the Assembly.— The motion is not in possession of the assembly until it has been seconded and stated to the assembly by the presiding officer. Until that time no member has a right to make any motion in relation to it, or debate it, or to ask the floor for either purpose. On the other hand, until the presiding officer has so stated it to the assembly, the member offering it, either at his own suggestion or that of another, may modify his proposition. After it has been stated he can not modify it except by consent of the assembly or in the regular way of amendment.

109. Main Question.— The business thus in possession of the House is called the "main question." It is subject to many motions, which are particularly enumerated in their relations with each other in Chapter X. In this chapter and the next only the subsidiary motions, so

called, are treated of. In this chapter the subsidiary motions which dispose temporarily or finally of the "main question" are described, and in the next those which modify and change it. (See Sec. **163.**)

After introduction two courses are open to the assembly, refusal to consider or consideration.

110. The Question of Consideration. —The assembly, upon hearing the proposition or question stated by the chair, may conclude that it does not desire to consider it at all. In order to determine this any member has a right to raise the question of consideration, which he does usually in this form: "Mr. Chairman, on that I raise the question of consideration." Thereupon, without debate, the assembly divides upon the question of consideration. If decided in the negative, the main question remains as if it had not been brought up; if decided in the affirmative, the business then proceeds. The question of consideration applies only to the main question, and not to any other motion. The question of consideration may be raised even against a bill ordered by the assembly to be pro-

ceeded with at a fixed time, or against an order of the day, or even against a conference report.*

111. Point of Order.—Another method of preventing consideration is to raise a point of order, which is in substance an objection that the question can not be considered because it conflicts with rules and orders already established, or with pro-

* In some treatises it is said that the question of consideration can not be raised except by special rule. The question of consideration is like the question of the reception of a report. In both cases the question used always to be put as matter of course, whether the business should be considered or whether the report should be received. In both cases, also, it has come to be the custom for the Chair not to put the question, but to require it to be raised from the floor. If the question is not raised, then consideration and reception are both matters of course.

The rules of the House of Representatives that the question, "Will the House now consider it?" shall not be put unless demanded by a member, is plainly not a creation of the question of consideration, but a limitation of a custom already established, and implies that without that limitation by rule the Speaker would have to put the question of consideration, even if it had not been raised.

ceedings already determined upon by the assembly. The point of order is more fully described in Section **182** *et seq.**

112. Time for Making These Objections.—Both these objections to present action must be presented before consideration has been entered upon. After debate has begun or other action has been taken it is too late.

113. Other Methods of Putting the Question Aside.— The motions to lay on the table, postpone to a day certain and to postpone indefinitely, to commit, and even the motion to adjourn, are also methods of stopping present consideration. While they are usually employed later in the proceedings, they will now be described. (For motion to adjourn see Sec. **177**.)

114. To Lay On the Table.— This

* The point of order is, of course, not to be classed with the subsidiary motions. It is an incidental motion, and mentioned here out of its logical place because it is one of the direct methods of changing the position of the question. As between it and the question of consideration it should be decided first; because if the question can not be considered it is not worth while to vote that it should be.

motion is practically a motion to suspend the consideration of a question during the pleasure of the House. It carries with it all questions connected with the special question on which it is moved. If it be moved on the main question, then all amendments go with it; if moved on the amendment, then the main question goes on the table also. This is upon the very solid ground that you can not go on with an amendment when the main subject is no longer before the House, and can not go on with the main question when there exist amendments liable to be called up at the pleasure of the House. When a question laid upon the table is again called up, it comes up before the assembly precisely as it was prior to the motion to lay it on the table, with all the amendments and motions then pending; but the motion to take from the table is not a privileged motion.

115. Effect of Motion in the House of Representatives.— The motion to lay upon the table in the United States House of Representatives defeats the proposition. It is never taken up again. This differs

from the custom of all other assemblies and leads to other modifications. For instance, laying on the table a motion to reconsider does not carry with it the original question, but is equivalent to a refusal to reconsider. Hence, also, in the House a conference report can not be laid on the table, otherwise a conference report might be put beyond the reach of either house.

116. To Lay On the Table — Renewal. — If the motion to lay on the table be decided in the negative, the original question proceeds as if the motion had not been made, and the motion may be renewed when there has been such progress as to make the motion substantially a new one.

117. To Lay On the Table — Debate, Precedence, and Amendment.—A motion to lay on the table is not debatable. It takes precedence of all other subsidiary motions except the question of consideration, but yields to privileged questions. This motion can not be amended.

118. To Postpone to a Day Certain.— The title describes the motion. Whenever the assembly thinks it would prefer to have time given members to inform them-

selves as to a question, or when it desires to take up some other question, then the motion to postpone to a day certain, naming the day, is a proper one to make. This motion is debatable, but the debate does not involve the merits of the main question. It is also amendable, and is inferior to a motion to lay upon the table. It is superior to a motion to amend, and of equal rank with the motions to commit, to indefinitely postpone, and for the previous question.

119. Motion to Commit.—Whenever an assembly finds that a question before it can be more satisfactorily proceeded with by means of a committee, the motion to commit will accomplish that object. This motion can be made at once upon the stating of the question, or later, after discussion and efforts to amend have shown the need of more careful investigation than the assembly itself can give it. Where the assembly has much business to perform and standing committees have been appointed, the committal is usually as of course to a committee on first presentation, and the assembly acts on the

report of the committee. The fact, however, that a committee has reported on the question does not preclude the motion to commit. In default of other regulation in the rules, the motion to commit may name the committee or create one.

120. Motion to Commit—Debate and Amendment.— The motion to commit is debatable, but the merits of the main question are not open to discussion on this motion, since that discussion will be in order when the committee reports. If, however, the proposition be to commit with instructions as to the main question, then debate can be had on the merits. The motion to commit is amendable, and ranks with postponement to a day certain, indefinite postponement, and the previous question.

121. Motion for Indefinite Postponement.— This motion is designed to avoid a direct vote on the question itself, and to give the opponents of the bill an opportunity to try their strength at any stage of the bill. If decided in the affirmative, the bill is defeated; if in the negative, the bill proceeds as if the motion had not been made. It serves the original purpose of the

English previous question, as it was under the early practice.

122. Motion for Indefinite Postponement—Debate and Amendment.—The motion for indefinite postponement is not only debatable itself, but throws open the whole question for debate. Inasmuch as an affirmative vote on this motion may decide the main question, the merits of the question must be open for discussion. The motion can not be amended. It ranks with the motion to postpone to a day certain, to commit, and for the previous question.

123. Previous Question. — The previous question in England was also originally a motion intended to avoid a direct vote on the subject before the assembly. It was first employed in what were then considered "delicate matters," which involved high personages, and was a very ingenious method of avoidance. It still prevails in the House of Commons. There, when the previous question is moved, it is moved by the enemies of the proposition, and is moved for the purpose of putting the measure aside, and not for the purpose of

suppressing debate and bringing the subject to a final decision. There the proposers of the motion desire to have a negative decision; there the motion for the previous question can be debated. Hence it can not be used for the purpose of closure. The manner of putting it is, "Shall the main question be now put?" If decided in the negative, since the main question can not be put, the House having voted not to have it done, it must necessarily be laid aside; if it be decided in the affirmative, then the main question, without amendment, and without even permitting a motion to adjourn, must be at once put and decided.

124. The Previous Question in America — Gradual Evolution. — The previous question in the United States has come to be quite a different motion from the one just described, both in purpose and in result. It was originally moved by the friends of the measure to cut off debate and amendment, and cause a final decision of the main question. It has reached its present condition by slow growth, and answers a very great need in

a large assembly. Without it debate might have no end, especially where written speeches are permitted. At first we were contented with the English motion, simply reversed in its intentions and purposes. They used it to defeat the measure and we used it to forward it. But it was soon seen that there was grave inconvenience in going back to the main question, overthrowing all intervening motions, including amendments, and at the same time leaving the whole subject practically open to debate. It was also no longer sensible, when the previous question was moved in the interest of progress, that a negative result should throw the measure aside for the day.

Hence, in view of these things, experience has established in America the previous question as follows:

125. Previous Question Now in Use. — Instead of the formula previously employed, "Shall the main question be now put?" the presiding officer should say, "Mr. 'A.' demands the previous question. As many as are in favor of ordering the previous question will say aye; as many as are opposed will say no." This question

is not debatable and can not be amended. The results of the motion are as follows: If determined in the negative, the consideration goes on as if the motion had never been made; if decided in the affirmative, then the presiding officer at once, without debate, proceeds to put, first, the amendments pending, and then the main question as amended. If an adjournment is had after the previous question is ordered, the subject comes up the first thing after the reading of the Minutes or Journal the next day, and the previous question still operates, making the main question privileged over all other business, whether new or unfinished.

126. The Previous Question—Rank. — The previous question is of equal rank with the motion to postpone to a day certain, to postpone indefinitely, and to commit. It can not be moved while either of the others is pending.

The Previous Question in the United States House.— The previous question can not be moved in the United States Senate. In the House "the previous question may be asked and ordered

upon a single motion, a series of motions allowable under the rules, or an amendment or amendments; or may be made to embrace all authorized motions or amendments, and include the bill to its engrossment and third reading, and then, on renewal and second of said motion, to its passage or rejection." It is there, however, in order, pending the motion for the previous question, and even after its adoption, to commit, either with or without instructions.

It will be seen that this rule extends the previous question to all debatable and amendable motions. This is a very great addition to the previous question of general parliamentary law, which is not applicable to any question except the main question.

127. The Previous Question—Practical Suggestions.—In small assemblies there is but little use for the previous question; and the prejudice is so strong against shutting off debate that it is often rather a dangerous motion to make, and should be made only after the assembly has plainly exhausted the subject.

In large assemblies, especially of the

legislative kind, there should be a special rule giving the previous question a higher place than it has under general parliamentary law. It should follow the motion to lay upon the table and precede all the rest; it should also be made applicable to all debatable amendments and motions. In large assemblies everywhere, especially where there are permanent party divisions, it is impossible to accomplish public business without the power of closing debate.

128. Closure of Debate in the House of Commons and Chamber of Deputies.— In England, as we have seen, the previous question does not close debate, and until quite recently there was apparently no power even in the majority to cause discussion to cease. But most evils discover their own remedies, and in 1881, after the scenes described in Section **223**, the House of Commons carefully considered the question at different times, and the result is that, with the approval of the Speaker, the House can close the debate in a way which seems substantially like our own, by a major vote, provided

not less than a hundred members have voted in the affirmative. It should be added that in the House of Commons the quorum is forty, the usual total six hundred and seventy-five. In France the closure (*clôture*) has been for a long time in use, and requires in the Chamber of Deputies the vote of a majority only. In that body a majority must be present to constitute a quorum.

CHAPTER IX.

Conduct of Business, Continued. Amendments.

Having thus described the method by which an assembly may dispose of the main question in various stages of its progress, and lay it aside permanently or temporarily, it remains to show how the assembly can modify and discuss the question.

129. Method of Procedure in Ordinary Cases.— In the assembly the proposition, or main question, should be first

read, in order that the members may understand the question as a whole. It is then read a second time, when it is open to amendment and debate in all its parts. Unless otherwise ordered, an amendment can be offered to any part of the proposition, and after that is disposed of, to any other part, whether previous or subsequent. (But see Sec. 130.)

130. Method of Procedure by Paragraphs or Sections.— When the main question is in paragraphs or sections, the second reading is by paragraphs or sections for amendment, and each paragraph is amended in its turn; and it is not permissible, except by general consent, to recur to a paragraph already passed. The main question may be debated on the first reading as a whole, and then the second reading can be had for amendments.

Where the main question is prefaced by a preamble, the preamble is passed upon last, because, giving as it does the motives of action, it can not be properly worded until the action is determined upon.

131. Amendment — Object.— The object of an amendment is to so change the

main proposition that it may more nearly conform to the judgment of the assembly. Were it not for the right to amend, the assembly would be obliged to take one of two courses, either of which might not express its convictions. To accept a proposition which was not wholly satisfactory, or to reject one which in many respects was suitable, was a hard alternative; yet this alternative was the one presented to the Corps Legislatif of France under the first Consulate. With no right to originate a proposition, and no right to amend it, the Corps Legislatif hardly seemed a deliberative body.

In all modern assemblies the right to originate and the right to amend are undisputed.

132. Amendment, Method of. — Amendment can be made in three ways: First, by inserting words; second, by striking out words; third, by striking out words and inserting others. (See Sec. **140**, last paragraph.)

133. Amendment to the Amendment. — In case the amendment offered, while satisfactory in its design does not in the

opinion of a member exactly meet the case, he is at liberty to propose an amendment to the amendment. Here, however, the process must end, for there must somewhere be a limit or confusion would ensue. The general judgment of assemblies has settled upon the limitation of amendments to the second degree. If the amendment to the amendment is not satisfactory to the assembly it can be voted down, and then a new amendment to the amendment will be in order, which in its turn can be rejected, and so on until the assembly is satisfied. (See Sec. 149.)

134. Amendment — One only at a Time.— When an amendment is pending all other amendments must be confined to that. Two amendments to different parts of the proposition can not be pending at the same time. The one originally pending must be disposed of before another can be entertained. It would not be in order, for instance, pending an amendment to one part of the proposition to entertain another relating to another part. One thing at a time is a most rigorous necessity for all successful parliamentary procedure.

135. Amendment by Insertion of Words.— This is the simplest form of amendment, and presents no difficulties. The motion should state the words to be inserted and the place of insertion. The description of the place where they are to be inserted should be definite, describing the words in the original proposition after which are to be placed the amendatory words. If no amendment to the amendment is offered, and no one rises to debate, the question is then put by the Chair in this way: "It is moved to insert the following words (reading them) in this place (describing it), and the question is, Will the assembly agree to the amendment?"

136. Amendment by Inserting — Effect of Action.— If the amendment is decided in the negative, it can not be repeated, although it may be again proposed to insert the same words with others, or a part of the same words with others, provided a substantially new proposition be thereby presented. Part of the same words can not be again proposed to be inserted, not only because the assembly has decided against it, but because that

object might have been attained by an amendment to the amendment, and since it was not so attained the assembly is presumed to have decided against it specifically. If the amendment is decided in the affirmative, then the words inserted can not any of them be stricken out, except with other words, and then only when, with other words, they constitute a new proposition. These limitations rest upon the idea that when an assembly has come to a conclusion, that conclusion is not to be questioned. Otherwise nothing would stay done.

137. Amendment by Striking Out.— This amendment also is simple. The motion should state the words proposed to be stricken out, and their position in the original proposition. If no amendment to the amendment be offered, and no debate proposed, the question is then put by the Chair: "It is moved that the following words (stating them) in such a place (describing it) be stricken out, and the question is, Will the assembly agree to the amendment."

138. Amendment by Striking Out, Continued — Effect of Action.—If the amendment to strike out be decided in the negative, it can not be renewed as to the whole or a part of the words. A negative vote is a decision on the part of the assembly that the words proposed to be stricken out shall stand part of the main question. It may, however, be proposed that these words with others, or a part of these words with others, be stricken out, provided the words newly proposed to be stricken out constitute substantially a new proposition different from the one already decided. In like manner if a motion to strike out a paragraph be lost, the paragraph can not be amended. Hence all motions to amend a paragraph should be put before the motion to strike out is put.

139. If the amendment to strike out be decided in the affirmative, then the words stricken out definitively cease to be a part of the main question and can not be reinstated in whole or in part; but the same words with others, or a part of the same words with others, may be inserted, provided they constitute substantially a new

proposition. In the United States House of Representatives, by Rule XVI, a motion to strike out being lost does not preclude amendment of words proposed to be stricken out. Under that rule it is as if no such motion had been made.

140. Amendment by Striking Out and Inserting. — The amendment by striking out and inserting is a combination of both the forms of amendment already described. It consists of a proposition to strike out certain words in the main question or pending question and to insert certain other words. It is in most cases the substitution of one set of words for another. It therefore embodies in itself all the results of both the first two forms of amendment combined. The words proposed to be inserted need not be inserted in the same place as the words stricken out; they may be inserted in different parts of the paragraph.

Amendment by way of substitute is a short and informal method of striking out and inserting usually applied to whole paragraphs or bills, and is made by offering a new paragraph or bill as a substitute for

the old, and upon adoption the old paragraph or bill is stricken out and the new one inserted.

141. Motion to Strike Out and Insert Indivisible.— The earlier authorities left it in doubt whether this double motion could be divided or not; but the modern practice is to regard the motion as indivisible. The rules of the House of Representatives declare the motion to be indivisible, and the practice of the country has conformed to this rule. The practical results have justified the change. A division of the question leads in many cases to great confusion.

142. Motion to Strike Out and Insert — Effect of Negative Action.— If the motion to strike out and insert be decided in the negative it can not be renewed in the same terms; but inasmuch as it is a combination of the motion to strike out and the motion to insert, the negative result does not prevent a great variety of subsequent motions to strike out and insert, or to strike out or to insert, some of which are as follows:

1st. To strike out the same words and insert nothing.

2d. To strike out the same words and insert other words.

3d. To strike out the same words and insert part of the proposed words.

4th. To strike out the same words with others and insert the proposed words.

5th. To strike out the same words with others and insert part of the proposed words.

6th. To strike out part of the same words and insert the proposed words or part of them.

7th. To strike out part of the same words and insert other words.

8th. To strike out nothing, but insert the same words proposed.

Still other varieties may be suggested, but those named may give an idea of the others. Of course each one of these motions must involve a substantially new proposition.

143. Motion to Strike Out and Insert — Effect of Affirmative Action.— If the motion to strike out and insert prevails, then the words inserted, or any of them, can not be stricken out.

This, however, does not preclude the

insertion of the same with other words, or a part of the same words with others, or to strike out the same words with others, or part of the same words with others. To state this in another form, the prevalence of the motion to strike out and insert does not prevent further use of the motion to strike out and the motion to insert, but the decision of the assembly already made must not be overthrown, though it may be modified.

144. **Motion to Strike Out and Insert, etc., Which Relates to Whole Paragraphs.** — What has been said above applies only to a motion to strike out certain words of a paragraph and substitute others therefor. Sometimes a motion is made to strike out a paragraph, or to insert a paragraph, or to strike out one paragraph and substitute another. As these motions apply to the whole paragraph, leaving no words remaining on which any remedial amendment could be ingrafted, it is evident that in such cases a new principle must come in. Otherwise the following would be the result: A motion to strike out being carried, the

paragraph and every part of it would be definitively out; being defeated, the paragraph would be unalterably in. So if a motion to strike out a paragraph and insert another were made, and carried, the one would be out irrevocably and the other would be in unchangeable. In this case the assembly would have a choice between two paragraphs neither of which would be fully acceptable. It is true that by the use of the amendment to the amendment the result desired by the assembly might possibly be arrived at, but the process would be too complicated for an assembly, and hence the rules hitherto laid down are modified as to amendments striking out and inserting whole paragraphs. The modification is that where a motion is made to strike out a paragraph the friends of the paragraph have a right to perfect it by amendment before the motion to strike out is put. Whenever a motion to strike out a paragraph and insert another is made, the friends of each paragraph have a right to amend so as to make it acceptable, beginning with the paragraph proposed to be stricken out.

It will be seen that this renders the motion to strike out and insert the equivalent of the amendment called a substitute. After the friends of both paragraphs have had an opportunity, with the assistance of the whole assembly, to perfect them, then the vote is taken as between the two in their perfected form.

145. Methods of Striking Out and Inserting in the United States House of Representatives.— Under the rules of the United States House of Representatives an amendment and an amendment to the amendment may be pending, and also a further amendment by way of a substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected. Accordingly in the House the custom is not to move to strike out a paragraph, section, or bill and insert another, but to offer a substitute. The original is then perfected, and after that the substitute, and then the House decides which it will have. If it desires neither, it votes against the substitute, and then on a motion to strike out it decides against the original paragraph.

146. Practical Suggestion. — If the assembly before which is pending a substitute or a motion to strike out and insert desires to decide against both propositions, against both the paragraph as it stands and the proposed amendment, it should decide in the negative as to the substitute or in the negative as to the motion to strike out and insert, and then on a new motion strike out the paragraph.

147. Amendment by Striking Out a Paragraph or Inserting a Paragraph. — Whenever a motion to strike out a paragraph is pending, it is in order for the assembly to amend the paragraph, its friends being entitled to perfect it before the vote on striking it out is taken. This is because if the motion to strike out is negatived, it is equivalent to an adoption of the words of the paragraph by the assembly, and it can not then be modified. Hence it must be amended before the vote on striking out, if at all.

For a similar reason the assembly may modify a paragraph proposed to be inserted pending the motion to insert, because when the motion to insert has prevailed

the paragraph inserted becomes the decision of the assembly. Hence it must be modified before the insertion, as it can not be amended after.

148. The English System of Putting Questions of Amendment.— Although some books of rules give the English form of putting the question on amendments, it really had very little prevalence here at any time. Our habit in most things is to go directly to the point, and hence our presiding officers put the question that the words be inserted or stricken out, or that certain words be stricken out and other words inserted, that being the direct question to be acted on. Or they say what is equivalent, the amendment having been repeated, "The question is on agreeing to the amendment."

The English method of putting the two motions to strike out and to strike out and insert is worth knowing, from the light it throws on the effect of action on the motions. In England the question is not put that the words be stricken out, but that the words proposed to be stricken out "do stand part of the question." This

reverses the motion, and an affirmative decision fixes the words in their place, while a negative decision strikes them out. The motion to strike out and insert is put in still more cumbersome fashion. It is first put, "Shall the words proposed to be stricken out stand part of the question?" If decided in the affirmative, then of course the rest of the question is not put. If in the negative, then the rest of the amendment may be put, or amended and then put. With this way of putting the question one may see a little more clearly that our vote not to strike out, being the same as the English vote that the words proposed shall "stand," precludes any change in the words thus adopted by the assembly, for by not striking them out we have ordered them to "stand."

149. Amendment to Amendments. (See Sec. **133.**)—Amendments to amendments are the same in character and classification as original amendments, and are divided into the same three classes and governed by the same rules. After it has been voted on, an amendment ceases to exist as a pending amendment, and another

may be presented until the assembly is satisfied that all needed modifications have been made.

150. Amendment — Modification by the Mover.— After the proposition has once been stated to the assembly by the presiding officer it is in the possession of the assembly, and can not be withdrawn except by the consent of the assembly. Hence it follows that the mover has no further control over its terms. He can not modify it himself or assent in any way that will bind the assembly to its modification by any other member.

Nevertheless, nothing is more common than a modification made by the mover or the acceptance by him of an amendment made by another, but all this must be understood to be done with the consent of the assembly, and can be prevented by the objection of any member. Thereupon the change can be made by the orderly process of amendment, as already described.

151. Amendment — Division of the Question.— When the main question is composed of more than one distinct prop-

osition, it may be divided so as to enable the assembly to vote on each proposition separately, but each proposition into which it is proposed to separate the question must be distinct and capable of standing by itself as a substantive proposition, so that either can be adopted alone without the other or others and still be an intelligible expression of the opinion of the assembly. A division between a clause and its proviso could not be had, for instance, because the proviso standing alone would mean nothing.

152. Division, continued—Who May Demand It.— A division can not be demanded as of right by any member. It must be made pursuant to a motion stating precisely the division asked for, which motion can be amended. The presiding officer can decide, subject to an appeal to the assembly, that the division proposed can not be made. Otherwise it is submitted to the assembly and decided by it. In the House of Representatives under the rules any member may demand a division of the question.

153. Division of Question Refused—Method of Reaching the Same Result. — If the assembly refuses to divide the question, then the question may be amended by propositions to strike out or by a substitute, so as to accomplish the same purpose. For example, if the main question consists of two distinct propositions, and is divided, and one adopted and the other rejected, it is the same as if a motion to strike out the rejected proposition had been carried and then the main question thus amended had been adopted.

154. Amendment—Filling of Blanks. — Sometimes a measure is presented to an assembly with blanks for dates and amounts. In that case, when it is proposed to fill the blanks, the propositions, if there be more than one, are not treated as amendments, but are marshaled in such order that the largest sum or the longest time is put first, and then if this proposal be rejected the next largest sum or longest time is put, and so on until the blank is filled. If the proposition to fill a blank were treated as an amendment, the first come would be the first served, but

the assembly would in many cases be deprived of the proper opportunity to express its real sentiments. If, for example, it were proposed to put in various sums ranging from $1,000 to $5,000, and an amendment for $3,000 were put first, those who desired to have $5,000 appropriated might not dare to vote against $3,000 for fear that they might get less. But by putting the question first on the largest sum and then on the others, the assembly stops where a majority of the voices agree.

See, however, Jefferson's Manual, Sec. 29, for a distinction which does not seem now in use. In the House of Representatives a motion to fill a blank is treated like any other amendment.

155. Other Methods of Amendment. — It often happens that the main question, in the form of a bill with sections or a report with paragraphs, is presented in crude shape, so as to require transposition, consolidation, or revision. The most satisfactory way to dispose of such a main question is to refer it to a committee, with or without instructions, but if that be

inconvenient, various expedients may be resorted to. Two sections which ought to be one may be consolidated by striking out one and then inserting it in the other, or adding it thereto, by separate motions. If a paragraph or section is misplaced it can be stricken out, and when the proper place for it is reached it may be inserted. So if a section or paragraph would be better if divided, part may be stricken out and inserted as a new paragraph or section. Such changes as these, however, are generally made by common consent on suggestion. Where such alterations are made involving alterations of the numbering of sections, the changes of the numbers are made by the Clerk, and need no motion.

156. Amendment by Striking Out All after Enacting Clause and Substituting a New Bill.— This form of amendment is much in use in legislative assemblies. After the bill has been perfected by amendments, either by the assembly or by the Committee of the Whole, then the member in charge of the bill, or some other member having the floor for that

purpose, moves to strike out all after the enacting clause and substitute another bill on the same subject. This is the motion to strike out and insert applied to the whole bill.

157. Amendment by Striking Out the Enacting Clause.— This amendment, also in use in legislative assemblies, being one which would leave the bill without the words which give it life and make it a law, has for its result when adopted the complete defeat of the bill. The Morrison Tariff Bill in the Forty-ninth Congress was defeated by striking out the enacting clause, first in Committee of the Whole, and afterward in the House. This amendment is not in order until the bill has been gone through by sections. In other words, pending the motion to strike out the enacting clause, motions to amend so as to perfect the text have preference. By special rule in the House of Representatives, however, striking out the enacting clause takes precedence of amendments.

158. Method of Stating Amendments to the Assembly.— In ordinary cases the presiding officer states the question as it

is written out by the mover, but at the request of any member, or on his own suggestion, if he deems it needful to enable the assembly to comprehend the action proposed, he reads, or causes to be read, first, the paragraph or section proposed to be amended as it stands; second the motion to amend, and finally the paragraph or sentence as it will stand if amended.

159. Limitation as to Amendments. — In theory, amendments are made to perfect the main question, and to enable it to obtain the vote of the assembly, but if the assembly is opposed to the question it is not confined to a direct negative. It may oppose it in various ways. Hence the enemies of the proposition may present such amendments as will render it obnoxious to the assembly and cause its rejection. They may also change and reverse its purpose, make praise out of censure, condemn instead of approve, or otherwise alter the meaning. Hence it often happens that the proposer of a measure does not get off with a simple defeat. Sometimes his own weapon is turned on

him, and he has to vote against his own motion, which has been so changed as no longer to express his will. These amendments, however, are often made so as to relieve the assembly from awkwardness of voting either for or against a proposition. As an example of the kind of amendments permitted, May (page 285, eighth edition) gives a proceeding in the House of Commons, in 1802, where the minority moved an address of thanks to the king for having removed Mr. Pitt. Whereupon the majority struck out all the words after the first, and substituted an eulogium of Mr. Pitt's policy. In another case, given by Professor Mell in his excellent book on Parliamentary Law, it was proposed by a religious convention to indorse a newspaper in a State. A very *malapropos* amendment, adding the name of a newspaper in another State, was offered. The assembly did not desire to be offensive to the newspaper in the other State, and so, instead of voting it down, added "all other religious newspapers," and the amendment thus amended was negatived unanimously, and the disagreeable incident closed.

But while an amendment can not be ruled out because it changes the object of the proposition, yet it is not admissible when it merely changes the affirmative. The insertion of the word "not" or the striking it out is not a proper amendment, since it does not change the question, but merely reverses the vote. It would require two votes where one would accomplish the object.

160. Amendments Must Be Germane. — Notwithstanding what has been said as to the wide range which amendments may take, yet there is a limitation. They must be germane or relevant to the subject matter of the original proposition. It is impossible to lay down any precise rule upon this subject, and much depends on the good sense of the presiding officer. A rule of the House of Representatives is declaratory of the general parliamentary law, and expresses it in these words, "No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

161. Incompatibility or Inconsistency. — An amendment may be inconsist-

ent or incompatible with the words left in the bill, or with other amendments already adopted, but that is for the assembly to decide, and not for the presiding officer. For him to pass upon such a question would be very embarrassing to the assembly, and still more so to him. So, also, the question of constitutionality is not for him to decide. Incompatibility, inconsistency, and unconstitutionality are matters of argument.

CHAPTER X.

Conduct of Business, Continued.

162. Privileged and Incidental Motions.— All the motions already enumerated and described except the main question are called subsidiary, because they tend to modify the position of the main question or the main question itself. They tend to the disposal of the main question by obtaining in various ways the opinion of the assembly. To refuse to consider the main question at all, to dis-

continue consideration until some other particular time, or to decline finally to continue its consideration, disposes of it indirectly. It is a rejection sometimes temporary, sometimes final. Although nominally these motions only change the position of the question, yet they are often equivalent to a direct adverse vote.

163. Before considering the other motions possible, it is well to pass in review those already described, and to submit a few suggestions generally. Let us first restate them in their order of precedence.

Subsidiary Motions.

First Rank.— Question of consideration.

Second Rank.— To lay on the table.

Third Rank.— To postpone to a day certain.

To commit or recommit.

To postpone indefinitely.

For the previous question.

Fourth Rank.— To amend.

First Rank.— The question of consideration takes precedence of all other

questions, but must be moved as soon as the question is stated by the presiding officer. If debate has begun, or any other motion has been put, then it will be too late to demand that the question of consideration shall be determined.

Second Rank.— After the assembly has determined to consider the question, then a motion to lay on the table can be entertained, and has precedence of all other remaining subsidiary motions.

Third Rank.— It will be seen that in the third rank there are placed four motions. They are placed together because they are of equal rank and neither can displace the other. The one first moved must be the one first disposed of before either of the others will be in order. For example, if a motion to postpone of either kind is pending, a motion for the previous question can not be received, nor a motion to commit. So if a motion to commit is pending, a motion to postpone can not be received. So, also, pending the previous question, a motion to commit or postpone would not be admissible.

Fourth Rank.— To amend. The mo-

tion to amend has the last place and priority over no other motion.

164. Applicability of Subsidiary Motions to Each Other.— As a rule, subsidiary motions can not be applied to each other. The motion to amend or commit can not be applied to the motion to lay on the table, to the previous question, to the question of consideration, or to the motion to indefinitely postpone. The motion to commit can not be applied to the motion to amend or to the motion to postpone to a day certain. Nor can the previous question, or either of the postponement motions, be applied to each other or any of the other motions. But there are the following exceptions:

165. Exceptions.— A motion to amend can itself be amended, as can also the motion to postpone to a day certain, and the motion to commit. In the latter case the amendment may add instructions or change the committee.

166. Effect of Motions of Higher Rank Upon Those Over Which They Have Precedence When the Inferior Motions Are Pending.— The adoption of a superior

motion while inferior motions are pending has the same effect upon them as it has upon the main question. If it is not adopted, the result is the same as if it had not been made, except that it can not again be offered until such lapse of time and change of condition as makes it a new motion. For example, a motion to commit adopted sends pending amendments to the committee as well as the main question. The previous question, when adopted, requires a vote on pending amendments first. A motion to lay on the table, if agreed to, carries to the table previous question, motion to commit, amendment or postponement, or any other motion which may be pending.

167. Privileged Motions.— The motions principal (or main question) and subsidiary already enumerated and described are motions relating strictly to the progress of the particular business before the assembly. This is true although a favorable vote on some of them, such as to lay on the table under the Congressional practice, to postpone indefinitely, and to

refuse to consider, is to cause the main question to be lost indirectly. But it should always be remembered that the rejection of a proposition is just as much the progress of business as its acceptance. "No" just as properly expresses the will of an assembly as "yes." A verdict for the defendant is just as much the progress of the business of a lawsuit as a verdict for the plaintiff.

There are, however, other motions, properly called privileged motions, which do not concern themselves with the progress of the main question, but with the existence of the assembly, the performance of its functions generally, its police and good order. They concern only incidentally the main question, which is for the moment before the assembly, and that only so far as they delay action by the taking up of the time. Yet these very motions, which do not concern the business before the assembly, have precedence over all others. This is because they are essential, not only to this particular business, but to the existence of the assembly itself as a working parliamentary body.

No assembly can work all the time; hence it must have the right to adjourn, and under certain circumstances to take a recess, and also to fix the time to which it will adjourn. So, also, an assembly, or one of its members, may be so attacked that the good effect of its action may be greatly impaired. Unless the attack can be repelled, the effect of its action may be lost. Hence arise questions of privilege, by the aid of which the assembly may set itself right with the community, or the member may have proper action taken to reinstate him in public confidence as a member. These privileged motions are as follows:

168. Privileged Motions.— First, motions to adjourn. Second, motions to fix the time to which the assembly shall adjourn. Third, motion for a recess. Fourth, Questions of personal privilege relating to the assembly. Fifth, questions of personal privilege relating to the member.

In addition it should be said that there may emergencies arise so immediate that action must be taken because of them. A fire may break out, or some sudden danger may occur. In such an event the presid-

ing officer must assume the responsibility of calling upon the assembly for immediate action, by putting motions otherwise not in order, trusting to the approval of the assembly afterward. These occasions are so rare, however, and the assembly so likely to be unanimous, that they hardly need mention.

The first three motions are called privileged motions, and the last two, questions of privilege.

169. Motion to Adjourn — Highly Privileged.— The motion to adjourn is a motion which enables the assembly to rest from its labors, and is highly privileged. It is frequently said that a motion to adjourn is always in order, but there are too many exceptions for the rule to be so succinctly laid down. A motion to adjourn can not take a member from the floor, can not interrupt the verification of a vote, and can not be entertained while an assembly is dividing. It can not be repeated until some business has intervened, and in the United States House of Representatives it yields to the presentation of a conference report.

170. Exception — When to Adjourn Would be to Dissolve.— When an assembly has not fixed the day to which it shall adjourn, and it is not otherwise limited by law, an adjournment would be equivalent to a dissolution, and would have no privilege whatever over other motions. Indeed, unless some time in such cases has been fixed for the next meeting the motion to adjourn should not be entertained by the presiding officer, unless he puts it as a motion to dissolve, which would have no priority, and indeed none of the peculiarities of a motion to adjourn. It would be debatable. An ordinary motion to adjourn is, as its very name implies, a proposition to resume another day, and means an intermission. This motion for an intermission needs no debate. A proposition to destroy the assembly would evidently open up a wide field for debate.

171. Motion to Fix a Time to Which an Assembly Shall Adjourn.— This motion is, like the motion to adjourn, a motion highly privileged, when no time has been determined upon as the regular hour of meeting after each adjournment. Such a

motion is in order as against any pending motion, including the motion to adjourn itself. It does not, however, have privilege over a motion for a recess already pending.

But if the assembly has already fixed the time for the regular meeting after adjournment, the motion to fix the time to which the assembly shall adjourn has no privilege or priority over pending motions.

172. Practical Observations.—In small and informal assemblies, a motion to adjourn, no time having been fixed for the next meeting, has frequently embodied in it a provision relative to the time to which the adjournment is to be had, such as a motion to adjourn to meet to-morrow at 10 o'clock A. M. Such a motion would be debatable, amendable, and privileged, but could not be repeated until some business had intervened. In case of anticipated contest, however, the two motions had better be kept separate, to avoid confusion.

173. Practical Suggestions. — Inasmuch as a motion to adjourn in a case where no day or date of reassembling had been fixed would, if carried, work a disso-

lution, whether so intended or not, and as fixing a date each day would be very inconvenient, the wisest thing for an assembly to do would be to fix as early as possible the time for meeting each day as long as the assembly is to continue. When the assembly is likely to take a recess each day, the time for that had better be decided upon as early as possible.

174. Motion for a Recess.— Where, by a special rule or order, the time has been fixed at which the session shall be resumed, the motion for a recess is, like the motion to adjourn, highly privileged, and is not amendable or debatable. Under other circumstances the motion is not privileged at all, and can be made only when there is no other business before the assembly. Where a recess has been ordered to begin at a future time, a motion to adjourn adopted before that time carries the assembly to the next regular session. (For Rule of House of Representatives, see Sec. 265.)

175. Effect of No Quorum on These Privileged Questions.— The motion to adjourn does not require the presence of

a quorum. The other motions do. But there must be an exception in the case of the motion to fix a time to which it will adjourn, the assembly not having previously determined upon a time. In such a case the motion to adjourn to meet at a stated time must be in order, and determinable by whoever is present. Otherwise the assembly might be dissolved by less than a quorum.

In the French Chamber of Deputies, where a majority is a quorum, the order of business for the next day, and the next day of meeting itself, is fixed at the close of the preceding session. No quorum is required. This arises from necessity, and is sustained upon the view that the Chamber next session has power to alter the order of the day, or may adjourn if it does not want to sit.

176. Effect of an Adjournment.— The effect of an adjournment is simply to postpone to another day the question under consideration, if there were one, and after the reading of the journal the unfinished business of the preceding day would be in order as if no adjournment had taken

place. This is true, of course, in the absence of special rules.

177. These Motions in the House of Representatives.— By special rules the motions to fix a day to which the House shall adjourn, to adjourn, and to take a recess have precedence of all other motions, and are always in order, the first and third being amendable and all not debatable.

In the Fifty-first Congress all three motions were relegated to their normal places under general parliamentary law. In all other Congresses of late years except the Fifty-first, the rules have been so construed that an infinite succession of these motions can be had, and the public business be made to cease at the will of a small minority of the House.

178. Questions of Privilege.— Questions of privilege are defined by the House of Representatives in a rule which is declaratory of general parliamentary law as, "first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings. Second, the rights, reputation, and conduct of mem-

bers individually in their representative capacity." Examples of breaches of privilege of the first class are disorder in the gallery, surrounding the assembly with soldiers or with a mob, divulging the secrets of the body, tampering with a bill. Examples of the second class are an offer to bribe a member, threats used toward a member by a witness, a duel between members.

179. Questions of Privilege, When in Order.— The questions of privilege among themselves take this order: First, questions which relate to the assembly itself; second, questions which relate to the member. A question concerning the whole House would have superiority over one concerning the member, but either takes precedence of all other motions except the motion to adjourn. They may even take a member from the floor, interrupting his remarks.

180. Questions of Privilege, to Whom Addressed.— Questions of privilege are in the first instance addressed to the presiding officer, who first decides whether the questions are questions of privilege.

As soon as he is satisfied upon that point, he makes a ruling, which may be the subject of appeal. If the ruling be that the question presented is not a question of privilege, then the business before the assembly proceeds. If the question is decided to be a question of privilege, then it is for the assembly to take action, as upon any other question, by motion and subsidiary motions. After the assembly has disposed of the question of privilege, it resumes the business which was interrupted by the question.

181. Incidental Questions. — Besides the principal and subsidiary motions, and the privileged questions which are liable to interrupt them, there is another class of questions called incidental questions. As the name implies, these questions arise incidentally out of both the subsidiary and privileged motions, and are capable of interrupting either in proper cases. These are:

First, questions of order.
Second, reading of papers.
Third, withdrawal of a motion.
Fourth, suspension of a rule.

Fifth, division of the question.

Sixth, motions as to method of consideration.

182. The First Question of This Kind Is a Question of Order.— The assembly, and each member of it, is entitled to have the business proceed in order. The rules of the body itself and the rules of parliamentary law must be observed. The duty of the presiding officer at all times is to see that the business proceeds in proper order. If, however, for any reason he allows the assembly to wander from the rules, and from proper parliamentary procedure, the remedy is easy. If the business before the assembly is not being conducted in order, any member has a right to call the attention of the presiding officer and of the assembly to the fact, and thereby to cause the business to be transacted in order.

Questions of Order.

183. How Disposed Of. — Whenever the presiding officer, or any member, calls attention to the fact that business is

proceeding out of order, a correction can be made at once. If, however, the question of order be a disputed one, it is first decided by the presiding officer, subject to an appeal to the assembly.

184. Manner of Raising and Deciding Points of Order.— Whenever any member thinks that the business of the assembly is going on contrary to proper order, he rises in his place and addresses the Chair, saying, "Mr. Chairman: I rise to a point of order." He is then asked to state his point of order, which he does. Thereupon, either with or without debate, at the pleasure of the Chair, the presiding officer decides the question of order. If an appeal, which is debatable, be taken, then the question is put as follows: "Shall the decision of the Chair stand as the judgment of the assembly?" If the point of order be overruled, then the business proceeds as before; if sustained, then the order of action is changed to conform to the decision.

185. Incidents of an Appeal on Point of Order.— If the vote be a tie, the Chair is sustained, because, although the question

is put, "Shall the decision of the Chair stand as the judgment of the assembly?" nevertheless the decision stands unless overruled. The presiding officer, when a member of the assembly, has a right to vote.

While an appeal is pending no other appeal can be entertained. All questions of order arising under an appeal must be decided peremptorily by the Chair, whose conduct may afterward be the subject of action by the assembly.

186. Points of Order — Illustrations. — Perhaps questions of order can be better elucidated by illustrations. In the House of Representatives all bills containing appropriations of money must have their first consideration in Committee of the Whole. When, therefore, any bill appropriating money comes up for consideration in the House, any member may make the point of order that the bill must first be considered in committee. This point would stop all consideration until the bill has been considered in committee. If an amendment to an amendment to an amendment, or, in other words, if an

amendment in the third degree be offered, a point of order will rule it out. So with an amendment offered after previous question ordered. In short, anything which varies from the regular order may be stopped by a point of order. As for points of order to preserve order, see Debate and Decorum.

187. Reading of Papers.— Whenever an assembly has to take final action upon a paper, any member has a right to have the paper read, in order that the assembly may know what it is voting upon. But if the paper is one on which a final vote is not being taken, it is usually not read, and if any member objects, the reading must be ordered by the assembly on motion, which motion shall be decided without debate. A paper which is not the subject on which the assembly is to deliberate and act can be read only in this way, except as part of the observations of a member in debate, and even then it must be subject to reasonable limitations.

188. Practice in the United States House of Representatives.— It would seem that a proposition on which a final

vote was not to be taken, like a bill offered solely for the purpose of reference, could not be read except by order of the House, but the practice where the bill was offered in open House has been otherwise.

189. Withdrawal of a Motion.— After a motion has been submitted to the assembly by the presiding officer, it is then in the possession of the assembly, and can not be withdrawn except by its consent. A motion for leave to withdraw by the member introducing it can, however, be made, which must be decided without debate.

190. Withdrawal of Motion in House of Representatives.— By special rule of the House a motion in possession of the House may be withdrawn by the mover at any time before a decision or amendment.

191. Suspension of Rules. — Under general parliamentary law there can be no suspension of rules unless the rules themselves provide for suspension. When they do so provide, the suspension can only take place in accordance with the provision. Hence it is not possible to

state any general rule for the offering of such a motion. If the rule relating to suspension should be general, and simply say, for example, that the rules could be suspended on a vote of two-thirds, then the motion would be an incidental one, and be in order while the main question was pending, like any other incidental motion, and would be decided without debate.

192. Suspension of Rules in House of Representatives.— In the House of Representatives the rules can be suspended only on the first and third Mondays of each month and on the last six days of a session. To obtain a suspension of the rules there must be first a recognition of the member by the Speaker for that purpose, for the motion is not a privileged one, always in order, and there must also be a "second," if demanded by a majority of the House ascertained by tellers. While the motion to suspend is pending but one dilatory motion can be entertained, and that is the motion to adjourn, and that but once.

193. Division of the Question.— The nature of this motion has been described

in Section **151**. It proposes to divide the question so that a separate vote may be taken on each substantive proposition. It must state the propositions into which it is proposed to divide the question. This motion is in order even after the previous question has been ordered.

194. Motions as to Methods of Consideration.— These motions when adopted constitute a sort of special rule applicable to the particular question under discussion, and are made only when there have been no rules established on the subject. Where rules have been established of course no special rule can be adopted in opposition without unanimous consent. These motions as to methods of consideration being in order at almost any stage, and relating as they do to limitation of debate and the order of action on the part of the assembly, give the body a control so complete of its business that but little is left to be desired. By means of them the assembly can limit debate and prescribe its course of action.

195. Practical Suggestion. — These questions of procedure can be, and ordinarily are, settled in the most informal

manner, on suggestion of the Chair or of the member in charge of the question. It is only in rare cases, where no agreement can be reached, that the motions referred to are made, and when made should be decided without formal debate.

CHAPTER XI.

Recapitulation and Classification of Motions.

In order that a clearer idea may be had of the possible proceedings of a deliberative assembly, the motions will be set forth together, properly divided and the order prescribed.

196. First — The Main Question.— The main question is the subject of deliberation, which may be introduced by a member, or by the report of a committee, or may come from another branch of the legislature or convocation, or from another branch of the Government.

197. Second — Subsidiary Motions.— Subsidiary motions are those which directly concern the main question, and

relate to the progress of that particular piece of business. They are of different rank, by which it is meant that some have precedence over the others. In the enumerations which follow they are stated in order of precedence. Those of superior rank precede those of inferior rank; those of the same rank have no precedence over each other.

First Rank.— Question of consideration; not amendable and not debatable; applicable only to the main question.

Second Rank.— Motion to lay on the table; not amendable and not debatable.

Third Rank.— Motion to postpone to a day certain; amendable and debatable.

Motion for the previous question; not amendable and not debatable.

Motion for indefinite postponement; not amendable; not only debatable as to itself, but opens up the debate on the main question.

Motion to commit; debatable and amendable.

All motions of the third rank are of equal right, and when one is pending it must be disposed of before another can be moved.

Fourth Rank.— Motion to amend; amendable and debatable.

198. Privileged Questions.— Privileged questions are those which arise out of the needs of the assembly as a deliberative body. They have precedence over the main question, and over all subsidiary questions, because they concern the whole body and are essential to its needs.

First, to adjourn.

Second, to fix the time to which to adjourn. (See Secs. **171** to **174** as to precedence.)

Third, to take a recess.

Fourth, a question of privilege concerning the assembly.

Fifth, a question of privilege concerning the individual members.

In a general way, it may be said that these questions have rank in the order named; that is, each is entitled to be put before the other in the above order. But this statement is subject to exceptions, which have been already explained. (See Secs. **168** to **171.**)

199. Incidental Questions.— Incidental questions are those which arise out of the needs of the orderly conduct of such

business as comes before the assembly, whether it relates to the main question or to the privileged questions. They are:

First, questions of order.

Second, reading of papers.

Third, withdrawal of a motion.

Fourth, suspension of a rule.

Fifth, division of the question.

Sixth, motions as to method of consideration.

A question of order has precedence over all the others, provided it is made at once, but has no standing if the business has been entered upon, or in the case of unparliamentary language the offending member has been allowed to proceed. A point of order must be made at once or is deemed to be waived. If there be confusion, rising and endeavoring to make the point saves all rights. The other incidental motions have no precedence over each other, and each must be decided before another can be put, and before any action on the question which was pending when the incidental motion was entertained.

200. Practical Illustration of Order of Motions.— To illustrate the order of mo-

tions, we can imagine a very long series pending at the same time, as, for example:

First, main question.

Second, amendment.

Third, amendment to the amendment.

Fourth, motion for previous question.

Fifth, point of order, as to the previous question.

Sixth, question of privilege.

Seventh, motion to adjourn.

Here are seven questions pending, and the question of privilege may raise many more. Many more also may come up as each question is passed upon by the assembly. These motions are all to be put in the reverse order. First, the motion to adjourn; if negatived, then, second, question of privilege (see Sec. **178**); third, point of order, to be decided by the Chair subject to appeal; fourth, previous question; fifth, amendment to amendment; sixth, amendment; seventh, main question. This is the order if nothing interferes; but, to illustrate the possibility of the situation, let us add some of the things likely to happen.

After the motion to adjourn is negatived the question of privilege (2d) may of itself

develop into a main question with all the motions enumerated above. Suppose all those to be finished, and the question of privilege disposed of, then the point of order (3d) may require a decision by the Chair and appeal to the assembly, with various privileged motions like adjournment. Then the previous question (4th) is voted on, and, if defeated, there may follow more amendments and more debate, and also motion to indefinitely postpone, motion for commitment, and motion for postponement to a time certain, and perhaps motion to lay on the table. If the previous question (4th) be carried, then comes the amendment to the amendment, and the amendment, and then the main question.

201. Motions in Their Relations to Debate, to Amendments, and to Each Other — Consideration.— Not debatable, not amendable. Takes precedence of all motions except points of order.

Lay on the Table.— Not debatable, not amendable. Takes precedence of all other motions except the privileged motions and motion to suspend rules. Renewable after an amendment.

Postpone to a Day Certain.— Debatable, amendable. Takes precedence of the motion to amend, but does not cut it off, and is of equal rank with motions for the previous question, to postpone indefinitely, to commit.

Postpone Indefinitely.— Not amendable. Debatable. Takes precedence of motion to amend. Is of equal rank with motions for the previous question, to postpone to day certain, and to commit.

Previous Question.— Not debatable, not amendable. Takes precedence of the motion to amend, but does not cut it off, and is of equal rank with the motions to postpone indefinitely, to postpone to a day certain, and to commit.

To Commit.— Amendable, debatable. Has equal rank with previous question, postponement to a day certain, and indefinite postponement, and has precedence over the motion to amend.

To Amend.— Debatable, amendable. Has precedence over no other subsidiary motion. When pending, however, is not cut off by any other motion.

To Fix the Day of Adjournment.— Debatable, amendable. No precedence,

except where no regular time has been fixed to which the assembly shall adjourn. In that case it has precedence over the motion to adjourn.

To Adjourn.— Not amendable, not debatable. Has precedence over all other motions. (But see Secs. **169, 170.**)

To Take a Recess.— Debatable and amendable, and not privileged, except where the time to resume session has been fixed, in which case it is, like the motion to adjourn, undebatable, unamendable, and highly privileged.

Questions of Privilege.— Take precedence of all others, and the action proposed becomes the main question until disposed of.

Incidental Questions.—Not debatable, not amendable, except motions relating to method of consideration and division of question, which are amendable.

CHAPTER XII.

Motions for Reconsideration.

202. Reconsideration.— Even after a measure has passed the ordeal of consider-

ation, of debate and amendment, and of final passage by the assembly, it has not yet, in American assemblies, reached an end. It is subject to a motion to reconsider. In England the motion to reconsider is not known. If any error has been committed, it is rectified by another act. So far is the doctrine that a member knows what he intends the first time carried there, that members who go by mistake into the wrong lobby are counted where they are, and not where they ought to be. If he is with the ayes, he is counted aye, and not allowed to correct his error.

203. Motion for Reconsideration.— A motion to reconsider, if agreed to, reopens the entire question for further action, as if there had been no final decision. If, however, it is proposed to change any action taken prior to the vote reconsidered, that prior action must also be reconsidered. If the assembly, for instance, is not satisfied with an amendment made before the final vote, which has been reconsidered, the vote on the amendment must be reconsidered also. Immediately after the adoption of the motion to reconsider, the question stands precisely as it did before the

reconsidered vote was taken, and if no other action is proposed the presiding officer must again put the question to vote.

204. Reconsideration, When Permissible.— A motion to reconsider is applicable to almost all motions. The exceptions are, the motion to adjourn, to lay on the table when decided in the affirmative, suspension of rules, and the motion to reconsider itself.

A motion to reconsider is not in order after action has been had by the assembly in consequence of the decision proposed to be reconsidered. For instance, a motion to commit can not be reconsidered after the committee has taken the papers, the proper course being to discharge the committee.

A motion to lay on the table decided negatively can not be reconsidered if other business has been entered upon, for that would be the equivalent of a renewal of the motion, and should take that form. After the previous question has been partly executed, it can not be reconsidered.

After an appeal from the Chair has

been decided and that decision has been acted upon, a motion to reconsider the vote of the assembly on the appeal would not be in order.

Whenever the main question has been decided in the affirmative, the motion to reconsider an amendment previously adopted would not be in order. It would be necessary first to reconsider the vote by which the main question was passed, and if the reconsideration prevailed, then the motion to reconsider the amendment would be in order.

In general it may be said that if the assembly desires to reconsider an act, it must retract in regular order all subsequent action which affects the act to be reconsidered.

A question can be reconsidered but once, but if on reconsideration an amendment has been made making a substantial change, a second reconsideration can be had. A vote on reconsideration can not be reconsidered. A motion to reconsider the vote whereby the yeas and nays were ordered prevails if a majority votes therefor, but the question immediately recurs on the motion for the yeas and nays, and

one-fifth voting in the affirmative prevails again.

205. Motion for Reconsideration, When to be Made.— A motion to reconsider must be made on the day on which the action sought to be revised was had, and before any action has been taken by the assembly in consequence of it. It can be entered even while a member has the floor, and can be acted on another day. It can not be withdrawn except on the day it was made, except by consent of the assembly. If withdrawn on the day made, anyone can renew it. It has been laid down by very good authority that motions to reconsider can be made any time during the session, that is, during the whole period for which the assembly sits. But this would lead to such abuse and to so many bad practices, that modern opinion has become settled as stated above. Even with this limitation the practice of reconsideration has led to much waste of time.

206. Practice in House of Representatives.— In the United States House the motion to reconsider is limited by rule to the same or succeeding day. Such also

seems the general rule in State legislatures. In order to practically nullify the rule in great measure, a custom has sprung up in the United States House for the promoter of the bill to move a reconsideration, and then at once to move to lay his own motion on the table. If the latter motion is agreed to, under the customs of the House the motion to reconsider is defeated, for nothing is ever taken off the table of the House save by unanimous consent.

207. Motion to Reconsider, Who May Make It.— Only the member who voted with the prevailing party has the right to move for a reconsideration, it being a natural presumption that if no one who was of the prevailing party desires to reconsider his action an attempt to reconsider would be but a waste of time. If the vote was not by yeas and nays, the presiding officer may inquire of the mover if he was of the prevailing party.

208. House of Representatives— Who May Move. — In the House of Representatives, unless the vote is taken by yeas or nays, any member is permitted to move a reconsideration, although the

House Rule XVIII, Clause 1, is express upon the subject, and requires the member to be of the majority.

209. Reconsideration, Object of.— The general rule of parliamentary proceedings is that when the assembly has come to a conclusion or decision that result shall be regarded as final. This is necessary for the orderly action of the assembly itself. If what had once been decided could at all times be again opened by each member, there would be no end to confusion. Hence it is that even a decision which only implies the negative of another motion prevents that motion from being put. If, for example, words are inserted by amendment, they can not be afterward stricken out, because being put in implies of itself that the assembly does not want them stricken out. On a question between two legislative bodies, the motion to concur being defeated, that action is equivalent to the motion to non-concur, and no other vote is taken.

So useful is this that the English adhere to it in spite of any disadvantages.

We have, however, adopted the other practice, and while we adhere to the general rule that the decisions of the assembly must remain undisturbed, we allow corrections, but only by the direct action of the motion to reconsider.

Recurring to the examples above stated, if words have been inserted which on reflection are not satisfactory to the assembly, we do not move to strike out; we move to reconsider the vote by which they were inserted, and reach our correction by that road. If after voting not to concur we find that we did not really mean to non-concur, we reconsider and concur or concur with the amendment.

210. Motion to Reconsider — Debate. — A motion to reconsider is debatable wherever the subject on which the reconsideration was moved was itself debatable. Even when the motion to be reconsidered was passed under the previous question, a motion to reconsider reopens debate. If the reconsideration is carried, it can still be debated. Hence under our system of reconsideration a subject may be debated before passage and twice after.

211. Reconsideration — Practical Suggestion.— For ordinary small assemblies the motion to reconsider as it exists under general parliamentary law will work satisfactorily. In larger assemblies, especially of the legislative kind, it is well to allow it to be made on the succeeding day as well as on the day of the vote to be reconsidered. The previous question ought also to be made applicable to it. (See Sec. **127.**) In the House of Representatives it can be met with a motion to lay on the table, which enables the House to suppress debate and the reconsideration, both together, if it so desires.

CHAPTER XIII.

Debate and Decorum.

212. Object of Debate — Duties of Members.— The purpose of debate is to produce unity of sentiment in the assembly by such a comparison of views as will enable a majority to form a just judgment on the subject before them for action. As

the interchange of views in debate necessarily involves criticism of the views presented, and as criticism of views is liable to pass into criticism of the author, a debate may degenerate into a dispute, and the object of debate be entirely lost sight of. To avoid this, and to render discussion an appeal to reason and sentiment, and not an appeal to personal passions, there are many parliamentary devices.

Among them is the requirement that the member shall never address any one but the presiding officer. He must not allude to any member by name, but by some descriptive expression, like "the gentleman who last addressed the assembly," "the gentleman from Virginia," "the noble and learned lord," "the gallant gentleman, the member from Portsmouth." Such expressions import respect, and are in themselves a great restraint. Members must not use harsh expressions about other members, must not impute motives, but must always attack arguments and not the men who make them. Members may not abuse the rules of the House in order to obstruct public business. On the other

hand, the members who are not speaking must be silent, refrain from expressions of disrespect, or applause, must not read papers or pass between the member speaking and the presiding officer. They must not interrupt the member speaking without his consent. They must enter and leave the chamber properly and quietly.

Such are in general the duties of members to each other after the debate commences.

213. Beginning of Debate.— After a question has been presented to the assembly by a member and seconded, and then proposed by the presiding officer, it is open to debate, and the member who first rises is entitled to the floor to debate. Who rises first is always, in practice, determined by the presiding officer; and while it seems to be generally admitted, following very old precedents, that the assembly may otherwise order, in point of fact the recognition by the Chair in modern times is seldom, and perhaps never, disputed. Of course there may be cases where the assembly might properly be called on to determine who should address it. In the

United States House of Representatives the recognition by the Speaker is never questioned. This is right, for any other course would inevitably lead to confusion. If but one member rises, he will of course be recognized.

214. Rules Guiding the Presiding Officer in Recognitions.— If two or more rise, the presiding officer determines, but in determining he should be governed by certain rules. He ought to recognize first the mover of the proposition; not as of right, but because it seems most natural that the mover of the question should first explain it. Then if other members rise to debate, he should call upon a member opposed, and so alternate the debate. In general the presiding officer should call upon members to speak in such a way as will cause all sides of the question to be discussed.

It may be proper here to remark, that in this and all other things the first duty of the presiding officer should always be to do what the assembly wishes, having always in mind those permanent wishes embodied in the special rules and in par-

liamentary law. For example, if there be a question of recognition between members who desire to make motions not privileged, the presiding officer should be governed in all proper cases by what he thinks the wish of the assembly.

NOTE.— In the French Chamber of Deputies the rules recognize the right of a member to have his name listed for recognition, and he may present it to the secretaries any time after the deposit of the report on the question. A similar rule prevails in the Italian Chamber.

215. Member Can Speak but Once.— A member can speak but once on the same question at the same stage. A member, however, who has spoken on the main question has the right to speak on each amendment as it arises. This rule does not apply to an assembly sitting in Committee of the Whole. There any member may speak as often as he can get the floor.

216. Relevancy in Debate. — All debate should be relevant and confined to the subject of debate. The subject of debate is always the question directly before the assembly, whether it be the main question or any subsidiary or inci-

dental motion. It is the question last submitted to the assembly. When business begins and the main question is stated by the Chair, that is the subject of the debate. If an amendment is proposed and stated by the Chair, that is then the subject of debate, and not the main question. If there then comes up a motion to commit, the motion to commit while pending is the debatable matter. If the latest motion is not debatable, then all debate ceases until that motion is decided.

Although the distinction can be stated thus sharply in words, it is often difficult to rule upon it in practice. To discuss an amendment involves more or less the main question, as does also a motion to commit; yet discussion of the main question in its relations to an amendment and in its relations to a motion to commit are very different from a discussion of the main question pure and simple. Nevertheless, a patient presiding officer and a good-natured assembly can do much to confine debate to its proper channels. The best course for a presiding officer in most cases is to interfere only where the irrele-

vancy is very great and is leading to confusion. Sometimes the pending motion, as, for example, the motion for indefinite postponement, being the indirect equivalent of a negative vote on the main question, involves the main question and all amendments. In that case the subject of debate would be the whole range of pending propositions.

217. Yielding the Floor. — A member having the floor may yield it for a question addressed to himself without losing his right to continue, for the very act of submitting to an interrogation involves the retaking the floor for the reply.

So, also, when he yields for a motion to adjourn, or to take a recess, or that the Committee of the Whole arise, he is entitled to resume if either motion is negatived. So, also, if the motion is carried, he is entitled to resume at the next session when the subject is again before either assembly or committee. But in all other cases yielding the floor means abandoning it to the assembly. The member on the floor has a right to yield for the motions mentioned because they are indif-

ferent motions simply affecting the sitting of the body. He has no right to yield to a particular member for another kind of motion, because that would be to give him the power of recognition, and make him chairman without the ceremony of election. If he yields he must yield to the assembly for all purposes.

218. Yielding the Floor — House of Representatives.— In the House of Representatives it has for a long time been the custom for the member to control the hour allowed to him in such manner that he can yield any portion of that time to any other member or members. It therefore sometimes happens that the member who gets the floor distributes all his time and does not speak at all himself. This, however, is in derogation of parliamentary law.

219. Informal Remarks.— While a judicious presiding officer in most cases confines the assembly as near as may be to the formal rules of debate, it often happens that the settlement of points of procedure and of the terms of an amendment can be facilitated by a tolerance of

informal remarks and suggestions which bring opposing members to an agreement. This, however, can not be permitted when any member objects.

220. When the Right of Debate Ceases.— The right of debate does not cease until the assembly so orders by the adoption of the previous question or until the main question has been voted upon. Even after the affirmative has been taken a member may claim a right to debate provided the noes have not been taken. If, however, there are several ways of taking the vote, as is usual, viz., by sound of voice, by rising vote, and by yeas and nays, the decision by the first method precludes debate, even if the other methods be called for afterward.

221. Methods of Preserving Order. — It is the duty of the presiding officer to maintain order, which he does by calling on the members as a body to be in order whenever he notices disorder. While he is so doing, the business before the assembly is suspended until order is restored. If this is not sufficient, and any member persists in disorderly action, he is specifically

called to order, and if he does not cease, or if he raises any question as to whether he be in order or not, then the assembly determines what shall be done, on motion of a member.

The action of calling to order may be taken by the presiding officer of his own motion, or at the suggestion of a member who rises in his place and raises a question of order.

222. Disorderly Words in Debate.— Whenever unparliamentary words are used in debate, any member may call to order the member speaking, and ask to have the words taken down, provided he does so at once. Thereupon the member called to order sits down, and the assembly having heard read the words complained of, acts upon the case by motion or otherwise. The member may first be heard by way of explanation. Of course if the member denies having used the words the assembly must pass upon that question first, or the words may be incorporated by way of recital into the motion proposing punishment.

223. Time of Taking Down Words.— Mr. Jefferson lays down the rule that the objectionable words should be taken down after the remarks of the member have been finished. The rule was also stated to be that they could not be taken down if any other member had spoken or any business had intervened. The modern rule, however, is that the words should be taken down at once, as soon as may be, after utterance. Thereupon at once action is to be had by the assembly. Such action proposed may be in the nature of punishment, in which case the member should withdraw. If the words are not deemed very serious, or explanations are made, then the usual motion is that the member be allowed to proceed in order, in which case it is not customary for the member to retire. Of course he does not participate in the action of the assembly, or in its debate, except to make such explanation as the assembly permits. Of course, also, there may be cases where it is obvious that the member should withdraw, and if he does not retire voluntarily, the assembly can direct him so to do.

224. References to Another Legislative Branch.— It is not permissible to allude to the action of the other house of a legislature, or to refer to a debate there. Such conduct might lead to misunderstanding and ill-will between two bodies which must coöperate in order to properly serve the people. So, also, the action of the other body should not be referred to to influence the body the member is addressing.

225. Duty of the Presiding Officer in Cases where Debate and Parliamentary Motions are Employed to Create Disorder and Impede Business.— The presiding officer should pay close attention to the debates, so as to be ready at all times to interpose for the preservation of order. He should himself always be in order and act with the same evenness of temper which he requires from others. The presiding officer has great power over debate and decorum, because he represents the consolidated power of the assembly. It sometimes happens that in the forgetfulness of temper and of party feeling the very processes of the assembly created

to transact business are so abused as to be in themselves disorder. In that event the presiding officer should disregard such proceedings, after he has become entirely satisfied of their nature, and put only such motions as will expedite the declaration of the will of the assembly.* Necessarily such a course is to be taken very rarely, and after the offense is clear to all. For such action a presiding officer is responsible to the assembly after the transaction is over. In 1881, before closure was incorporated into the rules, a small number, about thirty-three members, in the House of Commons, an assembly of about 670 members, by alternation of motions to adjourn and motions to adjourn debate, which are both debatable motions under the English practice, kept the House in session day and night for forty-three hours. At the end of that time the Speaker declined to permit any other motions, and, notwithstanding the demands of the thirty-three, declared he would recognize no one for

* "If Mr. Speaker deems to motion an abuse of the rules of the House he declines to put it."—*Peel's Decisions, 1887–9, page 8.*

further motion or debate, but would put the questions needful for a decision by the House, which he at once did. Some debate on the subject was had afterward, but nothing was done by the House, the action of the Speaker being universally approved.

226. Punishment. — The punishment which can be inflicted depends upon the character of the assembly, and is in legal assemblies usually limited by law. In voluntary assemblies it may be censure, reprimand, or expulsion, or a demand for apology on pain of expulsion. It almost always happens, when attention is called to the unsuitable nature of the words used by the member, or the acts performed by him, that he makes such an explanation or retraction as enables the assembly to excuse him and go on with its business.

227. Debate in the United States House of Representatives. — In the United States House of Representatives the practice in regard to debate differs somewhat from that of ordinary assemblies. The member proposing a measure, either on his own motion or as the organ of a committee, has charge of the bill or

resolution. He is the first recognized to speak on the measure. Next the members of the committee are preferred, on the ground that, having specially examined the subject by order of the House, they are more competent to instruct the House. While a member, as a rule, may not speak twice, the member in charge of a bill is permitted to close as well as to open debate if the bill is a report of a committee. In such case, if the debate has continued more than one day he may have an hour to close, in addition to the hour used in opening, and the ordering of the previous question does not deprive him of the closing hour.

After the motion for a suspension of the rules has been duly seconded, debate may be had for half an hour. So, also, after the previous question has been ordered on a question on which no debate has been had, there may be discussion for half an hour, fifteen minutes being granted to each side. Debate, however, in Committee of the Whole is debate within this rule. In the Fifty-first Congress forty minutes debate was allowed instead of half an hour. This half-hour, under sus-

pension, is equally divided between those opposed and those in favor. The Speaker usually gives control of the fifteen minutes in favor to the mover, and the rest to whoever demands a "second." In the House on all topics, and in Committee of the Whole in general debate, each member is allowed one hour, and is permitted to parcel out this time among other members. In Committee of the Whole, after general debate has closed, each member is limited to five minutes. This is called debate under the five-minutes rule. Debate on points of order is at the pleasure of the Chair except on appeal.

Whenever the member in charge of the bill has moved the previous question, and the House has refused to agree to the demand, then the control of the measure passes into the hands of those opposed to the previous question, and some one from that side, usually one of the committee, if prominent in opposition, is recognized to have control.

228. Punishment of Disorder and Misbehavior in the House of Representatives.— The only punishment which has been inflicted upon members of the

House for disorder and misbehavior, as members, has been censure or expulsion. By the Constitution a member can not be expelled except by a two-thirds vote. Probably the House has power to inflict other punishments. The United States Supreme Court in Kilbourn *vs.* Thompson, 13 Otto, 168, says, speaking of the power of punishment, "We see no reason to doubt that this punishment may be, in a proper case, imprisonment, and that it may be for refusal to obey some rule on that subject made by the House for the preservation of order." If the House of Representatives can imprison, it would seem that it could suspend without imprisonment.

CHAPTER XIV.

Methods of Voting.

229. Methods of Voting.— There are three methods of voting common in assemblies in the United States:

First, by sound.

Second, by rising.

Third, by yeas and nays.

230. By Sound.— When the presiding officer puts the question to the assembly, after stating it or causing it to be read by the clerk, he uses this form of words, "As many as are in favor say aye," and then after the affirmative has been heard, "As many as are opposed say nay." Thereupon he determines by volume of voice whether the ayes have it or the noes. He announces according to the fact. If he is in doubt, or if any member calls for a division, the rising vote is taken.

231. Rising Vote.— When the division is demanded, either by the Chair or a member, the presiding officer says to the assembly, "As many as are in favor of (as the question may be) will rise and remain standing until they are counted." After the count he then says, "The ayes will be seated and the noes will rise." Unless there is some other arrangement made by the rules, the presiding officer counts as well as announces the vote.

In many legislative assemblies, where the members' seats are permanent and in divisions, a permanent teller or monitor is appointed for each division, who announces

the vote in his division, which announcement is repeated by the Chair so as to avoid error, and then taken down by the clerk. The total result is then announced by the Chair.

232. Yeas and Nays.—The Constitution of the United States, and probably those of all the States, provide that upon demand of one-fifth of the members the vote shall be taken by yeas and nays. When there is no constitutional provision or special rule, the assembly by majority can order a vote by yeas and nays.

The method of voting by yeas and nays is as follows: The presiding officer says, "As many as are in favor of (as the question may be) will, when their names are called, say aye, and those opposed no." The clerk, having an alphabetical list of members, calls each by name in regular order, and as each member replies his vote is counted. After the first name has been called the call can not be interrupted, even by the arrival of the hour appointed for the adjournment of the assembly. A convenient method of noting such a vote is to have two columns after the names,

one for yeas and the other for nays, and to write in the appropriate column the number of the vote; that is, the first aye is noted by the figure 1 in the "aye" column, the second by the figure 2. In like manner in the "no" column, the first no is noted by the figure 1, and the second by the figure 2, and so on. By this means the number at the end of the column will give the ayes and noes at a glance. If the roll or list is twice gone over, and the names of those not voting are called a second time a dash in the appropriate column for each vote will enable the result to be readily reached. The vote is usually recapitulated, if demanded, by reading each name and the vote given.

NOTE.— In the French Chamber of Deputies there is still another method of voting. On the desk of each member are two piles of tickets, one white and the other blue, having printed on each the name of the member. An urn is carried up and down the aisles, and each member deposits a white ticket for yes or a blue ticket for no. Each ticket with the name of the member is announced. Proxy voting is said to be a custom. The *appel nominal*, still another method of voting, requires

each member to present himself on the tribune and there deposit his vote. In England the division requires the members to go into separate lobbies, and as they return their names are checked by clerks, and thus what is substantially a yea and nay vote is obtained.

233. In the House of Representatives.— At any time before the question of yeas and nays is pending, or after it has been refused, a vote may be had by tellers upon the demand of at least one-fifth of a quorum. Thereupon the two tellers appointed by the Chair take their places facing each other in front of the main aisle, in the open space before the Speaker's desk, and those in the affirmative pass between, and then those in the negative, and are counted, the number being announced at the end of each count. Then the stragglers pass between, each being announced by the tellers. The movement in passing between is from the Speaker's desk toward the rear of the hall. When all have voted the Chair announces that the tellers have reported, and states the result.

The vote on the question of demanding

the yeas and nays is always taken by a rising vote, unless on a motion tellers are ordered. On a demand for yeas and nays a majority can reconsider. (See Sec. **204.**)

Tellers are appointed, two in number, to represent the opposing views, one of them being for the affirmative and the other for the negative. The rising vote and the yeas and nays are taken as described in previous paragraphs, the rising vote being counted by the Speaker.

234. Other Methods of Voting.— Instead of a rising vote, as already described, the presiding officer may call for a show of hands, asking first those in the affirmative to hold up their right hands, and next those in the negative. It is also often a matter of convenience to take the vote by asking those in the affirmative to take their places in that part of the hall at the right of the chairman, and those in the negative to take their places on the left. Where the assembly is not seated, one or the other of these methods must be resorted to.

235. Decisions of Points of Order, etc., During Divisions.— While a divis-

ion is going on all questions as to who has the right to vote and as to members being excused from voting must be decided by the presiding officer without appeal and without debate, although he may, if he chooses, ask advice, which members must give sitting. After the division is over the assembly may correct any error made by the presiding officer. The presiding officer is vested with this temporary power because divisions upon divisions might lead to infinite confusion.

CHAPTER XV.

Proceedings Between Co-ordinate Branches of a Legislature.

236. Methods of Communication.—Heretofore we have discussed the law of procedure which governs assemblies acting for themselves. We have next to consider them when acting in conjunction with coördinate branches and forming legisla-

tures. In such a case each body is independent except so far as it chooses to bind itself by the adoption of joint rules. Since, however, it is necessary for both bodies to unite in a legislative act, and some communication is necessary between them, there have grown up various methods of communication, of which four are in common use, viz.:

Messages.
Joint committees.
Select committees.
Conferences.

237. Messages. — A message is the most common method of communication, and may relate to bills, amendments, parliamentary privileges, conferences, or any subject requiring the action of both bodies. Messages are delivered by the clerk or secretary of the body sending them, and all business in the House receiving the message is suspended and interrupted while the message is presented by the clerk, who first addresses the Chair and is recognized. If the House is in Committee of the Whole it rises informally, and some member takes the chair. Upon receipt

of the message the business interrupted is resumed.

238. Joint Committees.— Joint committees may at any time be appointed by both bodies, which committees may be standing committees and have charge of certain kinds of business. Some State Legislatures transact all their committee business by the aid of joint standing committees. Each House selects its own members, and the number from each House is agreed upon by both.

239. Select Committees.— These are committees appointed by each House, which communicate with each other, but do not act jointly. They are always selected for special purpose, and are not usual in this country.

240. Conferences. — A conference is one of the methods of communication between two assemblies which together constitute the legislative department of a government. Whenever a disagreement as to amendments between the two Houses has reached such a phase that it seems likely to be final, the House which has the papers usually asks a conference upon

the disagreeing votes of the two Houses and announces the names of the committee of conference. This action is communicated to the other House by a message. The other House then agrees to the request for a conference and appoints its committee. These committees are so composed as to represent as far as possible those in favor and those opposed on the disputed questions in both Houses. If, for example, three are appointed by each House, two should represent the majority in each House and one the minority.

241. Object of a Conference.— The object of a conference is to obtain such a knowledge by each House of the sentiment and opinions of the other House, and the reasons therefor, as may enable them to adjust their differences. As it would be inconvenient and unsuitable for both bodies to unite, they act by committees. The old method of conference was very cumbersome. The committee of the House asking the conference laid before the committee of the other House a statement of reasons, in writing, for disagreeing, usually adopted previously by the body

itself. This statement, with the papers, was presented to the other committee, and by them laid before the House they represented, and if they proved satisfactory a message of agreement was sent; but if the reasons did not satisfy, then the body which had been appealed to asked for a second conference, and presented its reasons, in writing, for non-compliance. There the matter ended, unless a free conference was asked by the House originally moving. While a free conference was being had neither House remained in session.

242. A Free Conference.— A free conference is one where the conferees meet and present, not only the reasons of each House, but such arguments, and reasons, and persuasions as seem suitable to each member of the committee. Instead of being confined to reasons adopted by either of the Houses, each member may present his own. A conference may therefore be a free conference though each House may have instructed its members and limited them to the terms of agreement.

This method of conference is the only one known to our parliamentary law, at least it is the only one now in practice. When two legislative bodies in this country have a conference, it is a free conference. With us the conference committee can sit during the session of both Houses.

The method described in the preceding paragraph was formerly in use in England, but in regard to bills, conferences are now disused, an agreement being brought about between the two Houses by means of messages.

243. Action of Conference Committees.— The object of a conference being the adjustment of differences between two bodies, and the conference consisting of independent committees, its report to be a valid one must be agreed to by a majority of the committee from each House. The committee of the House which makes the request for conference, being in possession of the papers, passes the papers to the other committee, and in case of an agreement the report is first made to the House assenting to the request for a conference. In case of a disagreement, the

House first asking for a conference retains the papers and asks for another conference. It often happens that several conferences are had before an agreement is reached.

The conference may agree on some things and disagree on others. In that case, the Houses may ratify the agreements and again confer as to the rest. No one but the conferees are entitled to be present at a conference.

244. Report of Conference Committees. — The report of a conference committee must be in writing and signed by those agreeing thereto, and must have the signatures of a majority of the representatives of each House. The report should be first made and acted upon by the House which was invited to the conference. It is then passed upon by the other House, if agreed to. If not agreed to by either House, the only method of renewing the question is by a further conference or by one House receding and concurring with the other.

245. Method of Obtaining Conference. — Whenever the two Houses have reached the point where they disagree, the House

which has the papers may reject the amendments of the other House and ask a conference, or, if there be urgency, one House may amend the bill, and without waiting for the rejection of these amendments may ask a conference. Of course the adoption of the amendments obviates the necessity of a conference and prevents any reply to the request. Such is the practice in Congress. The formal method, which perhaps any House has a right to insist on, is illustrated in this way: A bill passed by one House is amended in the other and returned. The originating House disagrees to the amendment, and notifies the amending House by a message, returning the papers. Thereupon the amending body either recedes and concurs or insists and asks for a conference. The conference may report agreement with amendments, but may not change any item already agreed to by both Houses. The report of a conference committee can not be amended. It must be accepted or rejected as it stands. If the body acting on the conference report finds itself unable to agree to it, and desires to agree

with a modification, the method of procedure is to reject the report, ask for another conference, and then instruct the committee to ask the conferees of the other body to agree to the proposed amendment to the report.

246. Procedure in the Assembly.— A conference report has precedence over any other business, because, being the procedure by which a final agreement is reached between the two Houses, the assent of both, which is essential to legislate on it, must be further advanced than any subject under debate. The courtesy, also, between the two bodies requires that precedence should be given to joint business. Accordingly, in the United States House the conference report is privileged, even against a motion to adjourn, and may be made at any time except while the journal is being read, the roll called, or the House dividing. This is but a declaration of general parliamentary law, except the privilege given as against a motion to adjourn. In the House, also, there must accompany the conference report a detailed statement sufficiently explicit to in-

form the House what effect the amendments or propositions will have upon the measures to which they relate.

247. Motions Relating to Agreement and Disagreement Between the Two Houses.— These motions are five in number, and have priority in the following order:

To concur.
To non-concur.
To recede.
To insist.
To adhere.

248. To Concur.— A motion to concur is the proper motion to make where one House has sent a bill to the other which has been returned with an amendment. So where one House has sent a bill to the other which has been amended and returned, and the originating House desires to agree but wishes the amendment in some way changed, the proper motion is to concur with an amendment, which amendment having been agreed to by the other House the bill would then be passed.

249. To Non-concur.— This motion is proper where the House desires uncon-

ditionally to reject the amendment of the other House. Even when this motion is pending a motion to concur would be in order, and also a motion to concur with an amendment.

250. Remarks on the Preceding Motions.— Each of these two motions, to concur and to non-concur, is the reverse of the other, and hence when one is rejected the other is considered adopted. The motion to concur is always put first, if demanded, even if the other is moved first, because it is the affirmative and is in the line of agreement with the other body. If the motion to concur is negatived, it is announced that the House non-concurs. If the motion to non-concur is negatived, the announcement is that the House concurs.

When the motion to concur with amendment is lost, the question of concurrence or non-concurrence pure and simple is still open.

251. To Recede. — This motion is proper where the House has previously non-concurred, and, upon the question again coming up, desires to recede from that position.

For example, when a bill has passed one House and been returned with an amendment, which is non-concurred in, and the amending House sends it back, insisting on the amendment, and the originating House on reflection concludes to adopt the amendment, the proper course is to recede.

252. To Insist.— If, however, the originating House in the case above described desires to continue its rejection of the amendment, a motion to insist is the proper motion.

The motion to insist may be coupled with a motion to ask a conference, and always leaves open the question of future action between the two bodies.

253. To Adhere.— If, however, either House desires to notify the other that its determination is fixed to make or reject the proposed amendment, even if it causes the loss of the bill, a motion to adhere is the proper motion. After both Houses have adopted the motion to adhere, the bill is lost.

Nevertheless, if one House asks a committee of conference, even after the other

House has voted to adhere it is usual to grant the request.

254. Remarks on the Preceding Motions.— The motions to concur and to non-concur being the opposite and sole alternative each of the other, a negative vote on the one is the same as an affirmative vote on the other. Such, however, is not the case with the three motions last described. After refusing to recede, or to insist, or to adhere, there is still a choice between the other two, and hence a negative on one is not an affirmative vote on either of the other two.

CHAPTER XVI.

Order of Business.

255. Orders of the Day.— In the absence of special arrangements made by the assembly, the natural order of business is the one to be followed. Each piece of business upon being presented is in order until disposed of and the next presented is taken up. But it may happen that the

nature of the business to be done is such that special notice needs to be given, or its friends may desire to be sure that it will have on a certain day the right of way. In that case, under general parliamentary law, the method is to move that this question be the order of the day on a given day. This, with such other questions as were set down in a similar manner for that day, would be the order of the day. If there were several questions appointed for the day, each would have priority in the order of assignment, and the first one assigned would be the first one considered. If an hour is fixed for one of the orders of the day, when that hour arrives, the business in which the assembly is engaged is suspended until the business appointed for that hour is disposed of. This is the rule even if the business pending is itself an order of the day.

256. Postponement to a Day Certain. — Whenever a main question has been postponed on motion to a day certain, it becomes on that day one of the orders of the day. In fact, a motion that a particular question be the order of the day for

another day is in fact a motion to postpone to a day certain. Hence a motion that a measure be the order of the day can only be made when the measure could itself be properly brought before the assembly. Most frequently, however, orders of the day are arranged by general consent.

257. Taking up Orders of the Day.— When orders of the day are reached, they can be called up on the suggestion of any member, or the presiding officer may lay them before the assembly in their regular order. A member speaking may be interrupted for this purpose. Of course the action of the assembly in assigning the orders of the day is not irrevocable. It may be, also, that the assembly may prefer to go on with the business already before it. In that event the question of consideration should be raised against the order, and if decided against consideration then the business previously pending can be resumed. In that event, if there were several orders, the question of consideration would have to be raised against each order of the day in succession.

258. In the United States House of

Representatives.— In the House of Representatives a bill is made the order of the day either by agreement or postponement, by suspension of the rules (see Sec. **192**) or on the report of the Committee on Rules. The manner of doing it by the aid of the Committee on Rules is this: A resolution specifying the time, and also the manner, of considering the special question is sent to the Committee on Rules. The Committee on Rules reports to the House by a resolution. If this resolution be adopted by the House, the question becomes the special order for the day specified. This resolution is in the nature of a change of the rules, and often for that special case modifies very decidedly the ordinary rules of the House.

259. Some Changes in General Parliamentary Law Made by Various Bodies, and Practical Suggestions Thereon.— The order of business already described (Sec. **255**; see Sec. **260**) is the order which would be followed under general parliamentary law. It naturally places much power in the hands of the presiding officer, and at the same time

imposes upon him arduous responsibilities. In small assemblies, or in those which have but little work to perform, it is of course all that is necessary; but where the assembly is large and the number of measures to be presented is great there must be modifications, not only of this general order of business, but of a few of the rules of general parliamentary law. Of the extent of these modifications each assembly must judge for itself, and but few suggestions can be made. It has seemed to me that the best service such a manual as this could render would be to show some practical modifications which have been made and leave the question of modification in each particular case to the needs of the assembly on which it must necessarily depend.

260. Natural Order of Business.— The natural order of business, as already stated, would be:

Calling to order.

Reading and approval of the minutes of the previous meeting.

Unfinished business.

New business.

Adjournment.

261. Modification by Orders of the Day.— The first modification which could be made would be under general parliamentary law, and would be the introduction of orders of the day which would supersede the natural order, and for that day the course of procedure would be:

Calling to order.
Approval of the journal.
Orders of the day.
Unfinished business.
New business.
Adjournment.

Rules may, however, be adopted placing the orders of the day after unfinished business or in any other position.

262. Modification as to the Introduction of New Business and Reference to Committees. — Where the business is more extensive, and is to be referred to standing committees, other modifications would be necessary to provide both for reference and report, and a simple order would be as follows:

Calling to order.
Approval of the journal.

Introduction of business for reference to committees.

Unfinished business.

Report of committees for action.

Adjournment.

Under this order of business each report of the committee could be taken up and disposed of, or could have a day assigned to it, and on that day the order would be modified by the insertion of the measure as an order of the day next after the reading of the journal, or after the unfinished business, or at a stated hour, as might be specified. When the proper time arrived the report would be laid before the assembly. If then the assembly desired to go on with the unfinished business, it could raise the question of consideration against the order of the day.

263. Order Where Calendars Are Necessary.— If, again, the business of the assembly was so great that it could not be disposed of at the time it was reported from the committees, and calendars or lists have to be made, then there would have to be another modification of the order of business, as follows:

Calling to order.
Approval of the journal.
Introduction of business for reference.
Reports of committees for reference to calendars.
Unfinished business.
Reports of committees for action.
Action on reports already made.
Other business.
Adjournment.

264. Rank of Motions. — There is hardly any legislative body which has not changed the order and rank of motions from that laid down by general parliamentary law. While there are differences in the changes which have been made, there has been remarkable unanimity in one respect, if one can judge from the examination of the rules of the popular branch in a dozen or more States in different parts of the Union. The previous question has been much advanced in scope and position, and the motion to indefinitely postpone has been in a measure relegated to the rear. In one important legislative body, the Massachusetts House, it has no place on the list whatever.

It would serve but little purpose to enumerate in a volume of this size the different orders actually adopted in the different States, especially as a single order can be given which will substantially represent the opinion of all the bodies referred to. The following is the order in Tennessee (both branches), Michigan, and Wisconsin:

When a question is under debate, no motion shall be received but —

To adjourn.

To lay on the table.

For the previous question.

To postpone to a day certain.

To commit.

To amend.

To postpone indefinitely.

Which several motions shall have precedence in the order in which they stand arranged.

This order is hardly anywhere varied from in the first three items. In the next item, commitment sometimes precedes postponement, and in the New Hampshire House and the Washington House the order is varied by putting indefinite post-

ponement between the previous question and postponement to a day certain, and in Connecticut the order is much the same.

265. United States House of Representatives.— The rule in the last Congress (Fifty-second) was:

"When a question is under debate, no motion shall be received but —

"To fix the day to which the House shall adjourn.

"To adjourn.

"To take a recess.

"To lay on the table.

"For the previous question (which motions shall be decided without debate).

"To postpone to a day certain.

"To refer or amend.

"To postpone indefinitely (which several motions shall have precedence in the foregoing order). And no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question."

In the Fifty-first Congress the rule was the same, except that the first and third items were omitted.

CHAPTER XVII.

Special Rules.

266. Practical Suggestions.— As has been frequently said already, the general parliamentary law as laid down in this manual is amply sufficient for all ordinary assemblies. Most legislatures, with some rules for the order of business and some provision changing the order of motions, could be safely conducted on the general law. The House of Representatives of the Fifty-first Congress had no other rules, except those relating to the number and duties of committees, from December 1st to February 16th, and were able to transact business satisfactorily, notwithstanding a high state of political feeling. Indeed, any one who has examined the rules of various State legislatures will see that a large part of the rules, so called, are but repetitions of the provisions of the general parliamentary law.

It remains, therefore, only to point out the dangers of abuse of the regulations of

the general law, so that each assembly may see where amendments should be made.

267. Changes in Order of Business.— So far as the order of business is concerned nothing remains to be said. There have already been given orders of business suitable for all ordinary purposes outside of the legislative bodies of States. Only one caution need be added, and that is that no rules should be adopted calculated to smother or thrust aside unfinished business. Such rules would ruin any assembly for purposes of action. (See Secs. **260–263.**)

There remains, then, only the order or rank of motions.

268. Change in Rank of Motions.— The danger attendant upon the rank which motions have in general parliamentary law arises principally from the unwillingness of men to forego debate even after full discussion. Representatives in Congress, and sometimes even Senators, do not finish when they have got through. To this natural desire for debate must be added the disposition, which has grown so much of late as to attract animadversion in all

countries governed by the parliamentary system, the disposition to use debate to waste time, cause delay, and prevent action. Hence the prominence given to the previous question in all legislative bodies. Having public business to perform, and generally within a stated time, they have put on record the need of control of debate. This most of them have done in two ways, viz.: First, by establishing an order of motions which enables the assembly to cut off the motion to commit, both motions for postponement, the motion to amend, and all debate. This is done by giving precedence over all these other motions to the motion for the previous question. The rule needed to make this change is given in Secs. **264** and **265.**

Where this rule exists, the previous question shuts off all the other motions, all debate, and brings the assembly to a vote, first on pending amendments and then on the main question.

Second, the previous question has been extended not only to the main question, but also to the various other motions which are debatable. Such a rule exists

in the United States House (Rule XVII). A model on which such a change can be made if the assembly so desires would be as follows:

The previous question may be ordered upon all recognized motions or amendments which are debatable, and shall have the effect to cut off all debate and bring the assembly to a direct vote upon the motion or amendment on which it has been ordered.

269. Two-thirds Requirement. — So strong is the natural feeling in favor of debate that many assemblies adopt the rule requiring a two-thirds vote to order the previous question. Where party feeling does not exist, such a rule can do no harm, although probably unnecessary, since assemblies are always unwilling to cut off discussion, and this feeling is sufficient protection. Where party feeling, however, does exist, such a requirement would defeat the rule.

The English closure rule began by such a requirement as merely enabled the two parties, the Liberals and the Conservatives, when united to suppress the Irish.

But the demands of actual business have changed this to the simple requirement of a majority with the assent of the Speaker.

CHAPTER XVIII.

Forms.

270. For Calling a Meeting.— The undersigned invite all persons desiring to form a Circulating Library Association for the town of Hudson to meet at Deering Hall on Saturday, the 15th day of July, at 3 o'clock in the afternoon.

J. R. Reynolds.
M. F. Banks.
S. R. Hammond.

271. Calling to Order.— Mr. Reynolds having been designated to do so, or of his own motion, rises in his place at the time appointed and says, "The time having arrived for opening this meeting I take the liberty to call it to order, and nominate Mr. Banks as Chairman, and if it be your pleasure that he serve you as Chairman

you will please say aye." Then the ayes having voted, he adds, "Those opposed, no. The ayes have it, and Mr. Banks will take the chair."

Or Mr. Reynolds may say, "The time having arrived at which this meeting was invited to assemble, I call it to order. Will some one please nominate a Chairman?" Thereupon, if several are nominated, the name first presented is first put to vote and then the next, until a Chairman is obtained.

Another form:

Or, if the meeting be a county (city or State) convention, Mr. Reynolds may say, "As Chairman of the County Committee, the time having arrived for the convention to meet, I call it to order, and under direction of the committee nominate Mr. Banks to be Chairman. Is it your pleasure that he serve you as Chairman? If so, please manifest it by saying aye." Then after a pause, "Those opposed say no. The ayes have it. Mr. Banks is chosen Chairman and will please take the chair." If the vote should be doubted, then it can be verified by a hand vote or by calling the

roll. If Mr. Banks does not receive a majority, then the Chairman of the County Committee would call for nominations. Of course other nominations could be made before the vote, and if the Chairman of the committee anticipates any contest he should give opportunity for nominations before he puts any vote.

272. The Chairman.— The Chairman upon taking the chair usually acknowledges the compliment paid him by a few words of thanks, and then says he awaits the further pleasure of the assembly. Whereupon some one nominates Mr. Hammond as Secretary. The Chairman then announces that Mr. Hammond has been nominated, and asks if there are any other nominations, and puts the question to the assembly, and it is voted on in the same way as at the election of the Chairman.

The organization being thus completed, the Chairman reads, or causes the Secretary to read, the call for the meeting, and then the business proceeds upon some motion made by a member, which may be for the appointment of a committee to examine credentials, or for permanent

organization, or a resolution to express the sentiment of the meeting, which will be open to all subsidiary and incidental motions and subject to interruptions by privileged motions.

273. Parliamentary Inquiries.— If a member desires to know what will be the effect of a certain action if taken by the assembly, or desires to know how to proceed to accomplish a certain result, he rises and says:

"Mr. Chairman, I rise to a parliamentary inquiry."

The Chairman: "The gentleman will state his inquiry."

The member: "Mr. Chairman, if this motion to non-concur is defeated what will be the effect?"

The Chairman: "The effect will be to concur."

The member: "Would a motion to concur be in order so that we might have a direct vote?"

The Chairman: "It would."

Another example:

"Mr. Chairman, a parliamentary inquiry."

"The gentleman will state it."

"Do not the rules require this bill to be first considered in the Committee of the Whole?"

"The gentleman can ascertain that by making the point. The Chair thinks so, but will not rule until the question is presented."

The member: "Then, Mr. Chairman, I make the point of order."

274. Points of Order.— The last example gives a form for this incidentally. The usual course when a point of order is made is for the member to rise and say:

"Mr. Chairman, I rise to a point of order."

The Chairman: "The gentleman will state his point of order."

The member: "Mr. Chairman, the point of order is this: Our rules provide that at 10 o'clock unfinished business shall be taken up. It is now 10 o'clock."

The Chairman: "The point is well taken, and the Chair will lay before the assembly the unfinished business." Or the member may rise and say, "Mr. Chairman, I call the member to order and

ask that his words be taken down." Thereupon the words are reported by the stenographer and read to the assembly, and the assembly takes action.

275. Subsidiary Motions.— Consideration.

The member: "Mr Chairman, I raise the question of consideration."

The Chairman: "The gentleman raises the question of consideration. As many as are in favor of consideration will say aye. Those opposed, no. The ayes have it, and the assembly will proceed to the consideration of the question." Or, "The noes have it, and the assembly refuses to consider."

276. Lay on the Table.— "Mr. Chairman, I move that the resolution be laid on the table."

277. Postponement.— "Mr. Chairman, I move that the order be indefinitely postponed." "Mr. Chairman, I move that the further consideration of the resolution be postponed to the 10th of next July at 10 A. M."

After this last motion is in possession of the assembly a member may move to amend.

"Mr. Chairman, I move to amend by striking out the word 'July' and inserting the word 'August.'"

278. Commit.—"Mr. Chairman, I move that the motion be committed to a committee of ten to be appointed by the Chair."

"Mr. Chairman, I move that the order be committed to the standing committee on assembly expenses, with instructions to ascertain and report to the assembly if such expenditure is necessary and can be properly paid out of the funds already collected."

279. Motions to Amend.—"Mr. Chairman, I move to strike out the following words (stating them) in the first two lines of the paragraph."

"Mr. Chairman, I move to insert between the words —— and —— in the second line of the paragraph the following words (stating them)."

"Mr. Chairman, I move to strike out the words (stating them) in the second line of the paragraph and insert in their place the words (stating them)." Or, "Mr. Chairman, I move to strike out the

words (stating them) in the third line of the paragraph and add the following words (stating them)."

280. Previous Question.— "Mr. Chairman, I move the previous question."

The Chairman: "The gentleman moves the previous question, and the question before the House is, shall the main question be now put? As many as are in favor," etc.

This is the usual form, but under the American practice, especially in view of its extension as in Rule XVII, House of Representatives, Sec. **268**, it should be, "The question is upon agreeing to the demand for the previous question. As many as are in favor," etc.

281. Adjournment.— "Mr. Chairman, I move that the assembly do now adjourn."

"Mr. Chairman, I move that the assembly adjourn to meet at 10 o'clock to-morrow morning."

"Mr. Chairman, I move that when this assembly adjourns it adjourn to meet at 10 o'clock on Thursday next."

282. Recess.— "Mr. Chairman, I move

the assembly take its recess." (See Sec. 174.)

"Mr. Chairman, I move this assembly do now take a recess until 7 o'clock this evening."

"Mr. Chairman, I move this assembly take a recess from 3 o'clock this afternoon until 10 o'clock to-morrow morning."

283. Questions of Privilege.—"Mr. Chairman, I rise to a question of privilege which affects the rights of this assembly." Or, "Mr. Chairman, I rise to a question of personal privilege."

The Chairman: "The gentleman will state his question of privilege."

284. Incidental Motions.— The modes of raising a point of order have been stated (Sec. 272). The other incidental motions are as follows:

285. Reading of Papers.—"Mr. Chairman, I move that the paper (describing it) be read by the clerk."

286. Suspension of Rules.—"I move the rules be suspended and the resolution be passed." (See Sec. 191.)

287. Withdrawal of Motion.—"Mr. Chairman, I ask consent of the assembly to withdraw the resolution."

288. Division of Question and Point of Order Thereon.—"Mr. Chairman, I ask for a division of the question, and move that it be divided into three parts, the first to end with the word —— in the third line, and the second to end with the word —— in the sixth line."

The Chairman: "The gentleman asks that the question be divided, and proposes the following division (reciting it). If the division is made, the assembly will first vote on the first proposition (stating it), then on the second (stating it), and then on the third (stating it)."

A member: "Mr. Chairman, I rise to a point of order."

The Chairman: "The gentleman will state his point of order."

The member: "The point of order is that one of the parts standing by itself is not a substantive proposition. If the first were negatived the rest would mean nothing if passed."

The Chairman: "The point of order is sustained and the motion overruled."

CHAPTER XIX.

United States House of Representatives—Methods of Business.

289. Change of Rules in Fifty-first Congress.—This work would be, perhaps, much farther from completeness than it is if an account were not given of the difference between the rules of the House of Representatives before the Fifty-first Congress and the rules of that Congress. A series of circumstances prior to 1890 had concurred to render the House of Representatives the most unwieldy parliamentary body in the world. The last revision of the rules had been made by distinguished men of both parties, but all animated, for different reasons then existing, by a desire that the minority should have great power. By these rules adopted by the Forty-sixth Congress the power was really made absolute. The motions to adjourn, to fix the day of adjournment, and to take a recess, being "in order at all times," con-

stituted a barrier by which three resolute men could stop all public business, and one-fifth of the House, owing to the right to call the yeas and nays, could, with ease and comfort, use up three hours of public time by the employment of as many minutes. One member could move to take a recess, another to fix the time to adjourn, and the third to adjourn, and demand yeas and nays on each; each taking up three-quarters of an hour. With the time usually wasted on amendments to two of these motions, the three hours would go on, and at the end the motions could be renewed and another three hours be destroyed, and so on until the majority, tired out, would surrender. Even without this process the system of doing business was weak beyond measure. Bills were put on calendars, and there was no way of getting them off. Senate bills went on the Speaker's table, and stayed there. The "morning hour" for committee reports was restricted to sixty minutes, and if a bill got there, all one had to do was to have one roll-call a day for two days and that bill was put to death, even if a great majority wanted it.

In short, every road was blocked. In the Fifty-first Congress this was changed. The motions to adjourn, to fix a time for adjournment, and to take a recess were sent back to their positions under general parliamentary law. A rule was adopted, which also was only a return to general parliamentary law, that the Speaker should entertain no dilatory motion, which meant that the processes of the House intended for the transaction of business should not be used to prevent business. The order of procedure was so changed that the bill from the Senate which was only a House bill amended could be at once taken up, if it did not appropriate money, as could also a Senate bill, the like of which had received a favorable report from a House committee. In addition, the "morning hour" was so changed that the House could have it terminate at the end of sixty minutes, or could go on after the sixty minutes and finish the pending bill. Other arrangements were made to facilitate the unfinished business. In short, the system contemplated that whatever business was entered upon should be fin-

ished, and not evaded except by recognized parliamentary motions. Under the old system bills were introduced, 10,000 in number, in open House, and referred in much confusion and with much waste of time. Under the new system these bills were handed to the Clerk, regularly referred, and no time of the House taken at all. Reports of committees which went to the calendars were similarly treated. As some body had to take up the question of what bills should have special preference, the Committee on Rules was charged with that duty, and reported from time to time bills to be taken up, with special rules for their consideration. These last two improvements were adopted by the next Congress, but the old obstruction paraphernalia of adjourn, fix the day, and recess, with a right to use proper motions for improper purpose, were reinstated. The "morning hour" was again reduced to sixty minutes, and that method of killing bills reëstablished.

Whenever Congress desires to do work, it must change its old rules; whenever it desires to avoid work and responsibility the system before the Fifty-first Congress will be found admirable.

NOTE.

See Page 24.

On April 17th, 1894, the Fifty-third Congress adopted the doctrine of a present quorum by a vote of 213 to 47, and that question seems to be settled.

Section of Rules.		Amend?	Commit?	Consideration, Question of?	Consideration, Question of, Method of?	Debatable?	Division of Question?	Postpone to day certain?	Postpone indefinitely?	Previous Question?	Papers, Reading of?	Reconsideration?
129 to 161	Amend	+	o	o	+	+ 1	+	o	o	o	+	+
184 185	Appeal	o 2	o	o	+	+	o	o	o	o		+
169 170	Adjourn	o	o	o	o	o	o	o	o	o	o	o
171	To fix time to which	+	o	o	o	+	o	o	o	o		+
119	Commit	+	o	o	+	+ 3	o	o	o	o	+	+
110	Consideration, Question of	o	o	o	o	o	o	o	o	o	o	+ 4
194	Motion as to methods of	+	o	o	o	o	+	o	o	o	o	+ 4
193	Division of Question	+	o	o	o	o	o	o	o	o	o	+
114	Lay on table (see note)	o	o	o	o	o	o	o	o	o		+ 5
109	Main Question	+	+	+	+	+ 6	+	+	+	+	+	+
182	Order, Point of	o	o	o	o	+	o	o	o	o	o	o
187	Papers, Reading of	+	o	o	o	o	+	o	o	o	o	+
118	Postpone to day certain	+	o	o		+ 7	o	o	o	o	o	+
121	Indefinitely	o	o	o		+ 8	o	o	o	o	o	+
125	Previous Question	o	o	o	o	o	o	o	o	o	o	+
178	Privilege, Question of	+	+	+	+	+	+	+	+	+	+	+
174	Recess	+	o	o	o	+	o	o	o	o	o	o
191	Rules, Suspension of	o	o	o	o	o	o	o	o	o	o	o
189	Withdrawal of Motion	o	o	o	o	o	o	o	o	o	o	o 9 +

EXPLANATION.— This table is intended to answer the question in the vertical column during the pendency of the motion in the horizontal column, e. g.: Amend. Amend? (Can you amend an amendment?) Yes. Consideration, Question of? (Can you raise question?) No. Motion as to methods of Consideration? Yes. Debatable? Yes. Division of question? Yes. Postpone to day certain? No. Indefinitely? No. Previous Question? No. Reading of papers? Yes. Reconsideration? Yes.

The + means yes; the o, no. Numerals in table refer to opposite page.

MODIFICATIONS.

(Referred to by Numerals In Table.)

1. But a motion to lay appeal on the table will cut off debate, and if carried will sustain the chair.

2. Motion to adjourn can not be amended unless it means a dissolution of the assembly. See §170.

3. But does to open to discussion the Main Question unless coupled with instructions. §120.

4. But not after consideration has begun.

5. But not if motion has been decided affirmatively.

6. Not as of right, but solely by permission of the chair.

7. Does not open Main Question to discussion.

8. Opens Main Question to discussion, because decision in the affirmative is a final negative to the whole proposition.

9. But not after the member having leave to withdraw, has withdrawn it.

GENERAL REMARKS.

Lay on Table. Motion to, can be entertained on amendment, but the result is the same as if made generally—the whole subject goes on the table. See §114. If made on "appeal" or "motion to reconsider" only the appeal or motion to reconsider goes on the table, but not the whole matter, and both appeal and motion are thereby ended.

Member on Floor can be taken off on Point of Order or on Question of Privilege. No one can claim the floor against a Question of Consideration seasonably raised.

Presiding Officer. When a member he may vote even when his vote makes a tie. A tie vote on an appeal sustains the chair.

Reconsideration. A motion to reconsider opens the whole question to debate even after it has passed under the previous question; but the motion to reconsider may be laid on the table, and thus negatived and debate cut off.

Second. None required on point of order or on reconsideration, or on question of consideration or appeal.

INDEX.

SECTION.

Action by an Assembly, forms of 100
Adjourn 169, 170, 201
motion to, highly privileged 169
exception 170
motion to fix time to which to 171
practical observations 172
practical suggestions 173
Amendment ..... 129 to 161, 201
amendment to 133, 149
of committee 84
changing affirmative 159
division of question 151, 193
who may demand division of question 152
English system of putting 148
filling of blanks 154
germane 160
of incidental motions 201
incompatible or inconsistent 161
insertion of words 135, 136
limitation of words 159
method of making 132
method of procedure in ordinary cases 129
method of stating 158
modification of, by mover 150
object of 131
one at a time 134
other methods of 155
paragraphs 130, 144
preamble ..... 130 note
striking out 137
striking out, effect of 138, 139

Amendment — Continued. SECTION
striking out, rule in House of Representatives 139
striking out all after enacting clause 156
striking out enacting clause 157
striking out and inserting 140
striking out and inserting paragraph 144, 147
striking out and inserting indivisible 141
striking out and inserting, House of Representatives, 145
striking out and inserting, practical suggestion 146
striking out, etc., effect of affirmative action 143
striking out, etc., effect of negative action 142
substitute 140
Appeal 184, 185
Assembly, adaptation of organization to 5 to 8
forms of action by 100
how it acts 100
Assemblies, legislative and constituent 4
nature of 2
understanding under which all meet 1
voluntary 3
Blanks, how filled 154
Business, how introduced 101, 102
conduct of chapters 8, 9 and 10
Clerk 41
duties 43
qualifications 42
right to debate and vote 45
substitute 44
Closure of Debate. See *Previous Question.* See *Table.*
by incidental motion. Table 194
House of Commons and French Chamber 128
Commit. See *Motions.*
Committees 119
action before assembly 80 to 82
action must be at meeting 79
amendments 84
appointment and selection 64 to 69
consideration of reports of 81, 82
consideration of reports on bills 83
duties of officers 73

Committees—Continued. SECTION
kinds of 59
conference 63
joint 62
select 61
standing 60
method of procedure in ..... 70 to 79
minority, views of 75
nature and need of 58
organization 71
place and time of sitting 70
principle of selection 69
quorum 72
report 80, 85
secret meetings 78
selection of ..... 64 to 69
views of minority 75
Committee of the Whole ..... 86 to 99
chairman 87
clerk 88
debate 91
origin 86
order in 94
procedure in ..... 87 to 98
quorum 89
record of 93
report of 93
rising of 92
sittings, how ordered 98
sub-committee, none 97
subjects entrusted to 95
suggestions 99
yeas and nays 90
House of Representatives 96
Communication between two houses, methods 236
messages 237
committees 238, 239
Conduct of Business ..... 100 to 195
Conferences 240
action of committee of 243

Conferences — Continued. SECTION
free ... 242
method of obtaining ... 245
object of ... 241
procedure on report ... 246
report in House of Representatives has preference over adjournment ... 169
report of ... 244
Consent, unanimous, effect of ... 24
Consideration, question of ... 110
time of raising ... 112
motions as to methods of ... 194
Debate ... 91
beginning of ... 213
cessation of ... 220
disorderly words ... 222
disorderly words, procedure ... 223
in committee of the whole ... 91
in House of Representatives ... 227
informal remarks ... 219
member speaks but once ... 215
object of ... 212
reference to in other branch ... 224
relevancy ... 216
what allowed on various motions ... 201
Decorum, duty of presiding officer where proper motions are used for improper purposes ... 225
practice in House of Representatives ... 228
punishment of breach of ... 226
references to other branch of legislature ... 224
Division of Question ... 151, 193
in House of Representatives ... 152
substitute for ... 153
who may demand ... 152
Duties
of clerk ... 43
of members ... 49
of presiding officer ... 34
of committee officers ... 73
Filling Blanks ... 154

SECTION

Forms ..... 270 to 288
call for meeting 270
calling to order 271
motions to adjourn 281
motions to amend 279
motions to commit 278
motions on division of question 288
motions to lay on table 276
motions on point of order 274, 288
motions on postponement 277
motions on previous question 280
motions of privilege 283
motions on reading of papers 285
motions on recess 282
motions on suspension of rules 286
parliamentary inquiries 273
preliminary proceedings 271
General Parliamentary Law. See Introduction 57
House of Representatives, appointment by speaker of substitute 39
amendment filling blanks 154
change of rules in fifty-first congress 289
committees of the whole 96
conference report 246
debate 227
division of question 152
motion to strike out 139
motion to strike out and insert 145
organization 7
petitions 107
questions of privilege 178
quorum 16, 21
lay on the table 115
methods of business 289
orders of the day 258
previous question 126
privileged motions 177
punishment for misbehavior 228
rank of motions 265

House of Representatives—Continued. SECTION
reading papers 188
reconsideration 206
reconsideration, who may move 208
right to report at any time 80
second in 105
speaker pro tem, selection of 39
suspension of rules 54, 192
withdrawal of motion 190
yielding floor 218
Incidental Motions. See *Order, points of* ..... 181 to 195
division of the question 151, 193
amendment 201
consideration, motions as to method 194, 195
debate on, etc. 201
reading of papers 187
suspension of rules 53
withdrawal of motion 189
Indefinite Postponement. See *Motions.*
Journal 46
Lay on Table. See *Motions.*
Legislature, co-ordinate branches. See *Conference.*
communication, method of 236
committees, joint 238
committees, select 239
conferences ..... 240 to 246
Main Question 109, 196
division of 151, 152
Majority Rule 23
Members' Rights and Duties 48, 49, 50
Minutes. See *Journal.*
Minority, views of 75
Motions relating to agreement or disagreement ..... 247 to 254
adhere 253
concur 248, 250
non-concur 249, 250
insist 252, 254
recede 251, 254
Motions. See *Amendments.*
to adjourn 169, 170

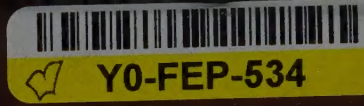
Motions — Continued. SECTION
to adjourn, no quorum required 175
to adhere 253
change in rank of, House of Representatives ..264, 265, 268
to commit 119, 120, 197, 201
to concur 248
to dissolve 172, 173
effect of superior on pending motions 166
to fix time of adjournment 171, 172
to insist 252
incidental 181, 199
to lay on table 114, 116, 117, 201
main question 109
to non-concur 249
as to methods of consideration 194, 195
order of, practical illustration 200
to postpone indefinitely 121, 122, 201
to postpone to day certain 118, 201, 256
previous question ..... 123 to 127, 201, 269
privileged 167, 168, 201
rank of 196, 201, 264
rank of, change in 268
reading of papers 187
reading of papers, House of Representatives 188
recess 174, 201
to recede 251
to reconsider ..... 202 to 211
relations of, to debate, amendment and each other ... 201
second 104
second, House of Representatives 105
to strike out and insert indivisible 141
subsidiary ..... 162 to 197
subsidiary, application of to each other 164
subsidiary, rank of 163
suspension of rules 191
suspension of rules, House of Representatives 192
withdrawal of motion 189
withdrawal of motion, House of Representatives 190
to be in writing 103
when in possession of assembly 108

SECTION

Officers, election of by plurality 25
necessary 47
other 47
Order of Business ..... 255, 258, 260 to 263, 267
Order, points of 111, 182, 199
appeal 184, 185
manner of raising and deciding 184
during divisions 235
how disposed of 183
time of raising 112, 199
Order, methods of preserving 221
Orders of the Day 255, 256, 257
House of Representatives 258
Organization, commencement of ..... 5 to 8
double 28, 29, 30
legislative 31
House of Representatives 31
object of 26
permanent 30
simple 27
temporary 29
Parliamentary Inquiry. *Note* 34
Petitions 106
House of Representatives 107
Postpone to Day Certain. *See Motions.*
Plurality, election by 25
Preamble, amendment of 130
Presiding Officer 32
appointment of substitute 37
behavior 35
choice of temporary 37
duties 34, 94, 214
duty on abuse of forms 225
debate, right to 40
power of assembly over 36
qualifications 33
substitute 37, 38, 39
Previous Question,
as now in use 125
in America 124

Previous Question — Continued. SECTION
original 123
practical suggestion 127
rank 126
rank, change in 268
two-thirds rule 269
House of Representatives 126
House of Commons 128
Privileged Questions. See *Motions* 167, 168, 198
Procedure, method of
as to amendments 129
as to main question 109
as to paragraphs 134, 144
as to sections 134, 144
Qualifications of Clerk 42
presiding officer 33
Quorum, adjournment from lack of 20
all 13
ascertainment of 34
committee of the whole 18, 89
definition 9
during debate 17
effect of no, in House of Representatives 21
how fixed 14
majority 12
need of fixing 22
not required to adjourn 175
number necessary 10
point of no, must be made 19
practical application of doctrine 19
practice in House of Representatives 16
present, sufficient 15
suggestion as to fixing number of 22
when not necessary 11
Reading of Papers 187
Recess 174
Recognitions, by presiding officer 214
Reconsideration ..... 202 to 211
but once 204
can not be reconsidered 204
debate 210

Reconsideration — Continued. SECTION
effect of ... 203
generally ... 202
motion for ... 203
object of ... 209
when permissible ... 204
when out of order ... 204
when to be made ... 205
who may make ... 207
yeas and nays, how reconsidered ... 204
Recording Officer. *See Clerk.*
Rules, absence of ... 56
alteration of ... 52
change of, in fifty-first congress ... 289
practical suggestions ... 55
special ... 51, 259
suspension of ... 53
suspension of, House of Representatives ... 54
why rules are needed ... 51
Secretary. *See Clerk.*
Sub-Committees ... 97
Substitute ... 140
Substitute Bill ... 77
Subsidiary Motions. *See Motions and chs. viii and ix* ... 163 to 165
application to each other ... 164, 165
rank of ... 163
Suspension of Rules ... 53
House of Representatives ... 54
Unanimous Consent, effect of ... 24
View of Minority ... 75
Voting, methods of ... 229 to 234
decision of points of order during ... 235
by rising vote ... 231
by sound ... 230
by yeas and nays ... 232
House of Representatives ... 233
various other methods ... 234
Yeas and Nays ... 90, 232
Yielding the Floor ... 217
House of Representatives ... 218


Y0-FEP-534